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ABSTRACT

Based on facts gathered in 1982-83 and prepared to inform the United States Commission on Civil Rights of the status of migrants in the State of Maryland, this report summarizes findings about housing, health and safety, access/communication/transportation, employment issues, and education. The summary of housing conditions notes that more than one-third of the 57 licensed migrant labor camps in 1982 operated with major health and safety deficiencies in spite of numerous authorities empowered to enforce standards that could improve camp conditions. Health and safety findings show generally poor health adversely affected by poor nutrition in particular. The report on access issues outlines numerous ways that migrant workers are isolated from mainstream society including language barriers. Discussion of employment issues focuses on exploitation of migrant workers including extremely low pay, the nation's worst working conditions, and lack of legal protection. Discussion of education concludes that despite the accomplishments and plans of educators in Maryland, migrant children experience poor educational achievement, are typically ostracized by local residents, and--in significant numbers--do not participate in educational programs for which they are eligible. Appendices list private and government agencies involved with migrant welfare and nine agency review replies. (JHZ)

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Migrant Workers on Maryland's Eastern Shore

June 1983

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A report of the Maryland Advisory Committee to the United States Commission on Civil Rights prepared for the information and consideration of the Commission. This report will be considered by the Commission, and the Commission will make public its reaction. In the meantime, the findings and recommendations of this report should not be attributed to the Commission but only to the Maryland Advisory Committee.

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LETTER OF TRANSMITTAL

Maryland Advisory Committee
to the U.S. Commission on
Civil Rights

June 1983

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John Hope, III, Acting Staff Director

Dear Commissioners:

The members of the Maryland Advisory Committee are pleased to transmit for your consideration the report Migrant Workers on Maryland's Eastern Shore.

In August 1982, the Maryland Advisory Committee conducted a forum on Maryland's Eastern Shore during the height of the 1982 migrant season. The Committee heard from individuals representing a wide range of perspectives and knowledge about the living and working conditions of migrant workers in Maryland, including several migrant workers themselves. This report summarizes and analyzes the information that emerged at that forum and during the related field investigation. In addition the report contains recommendations.

Our Committee hopes that our study, findings, and recommendations will aid Federal, State, and local officials to address more effectively the very basic needs of the migrant agricultural workers in the State of Maryland, some of whom lead very desperate lives indeed.

Respectfully,

PATSY BAKER BLACKSHEAR
Chairperson
Maryland Advisory Committee

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The Maryland Advisory Committee wishes to thank the staff of the Commission's Mid-Atlantic Regional Office, Washington, D.C., for its help in the preparation of this report.

The forum, study, and report were the principal staff assignment of Yvonne Schumacher, with editorial and legal assistance from Suzanne Crowell and Robert Owens. Parallel studies were undertaken in Delaware and in Virginia by Edward Darden and Wanda Hoffman. Overall coordination of the three projects was the responsibility of Robert Owens. Support was provided by Christine Scarnecchia and Barbara Stafford. The project was undertaken under the overall supervision of Edward Rutledge, Regional Director, and Everett A. Waldo, Deputy Regional Director, Mid-Atlantic Regional Office.

ATTRIBUTION

The material contained in this statement is that of the Maryland Advisory Committee to the United States Commission on Civil Rights and, as such, is not attributable to the Commission. This statement has been prepared by the Maryland Advisory Committee for submission to the Commission and will be considered by the Commission in formulating its recommendations to the President and the Congress.

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Prior to the publication of a report, the State Advisory Committees afford to all individuals or organizations that may be defamed, degraded, or incriminated by any material contained in the report an opportunity to respond in writing to such material. All responses have been incorporated, appended, or otherwise reflected in the publication.

CONTENTS

Introduction . . . . . p. 2-4

Housing . . . . . p. 5-23

Health and Safety . . . . . p. 24-28

Access, Communication, and Transportation . . . . . p. 29-33

Employment Issues . . . . . p. 34-40

Education . . . . . p. 41-49

Findings and Recommendations . . . . . p. 50-52

Appendix A: Advocacy Organizations . . . . . p. 53-54

Appendix B: Agency Review Replies . . . . . p. 55

Migrant and seasonal farmworkers have long been among the most exploited groups in the American labor force. Despite their hard toil and valuable contribution to our Nation's economy, their lot has historically been characterized by low wages, protracted hours, and horrid working conditions. The families, and particularly the children, of these workers have also suffered from the typical symptoms of chronic poverty--being undereducated, ill-fed, poorly housed, and lacking even the most rudimentary health and sanitary facilities. The tragedy is further compounded when it is realized that the victims of this poverty are in fact the working poor, those who offer an honest day's labor, but are denied the full benefits such work should provide, which are so desperately needed to provide the most basic necessities of life.

--Legislative History
P.L. 93-518
Farm Labor Contractor Registration Act
Amendments of 1974

Today, as always, exploitation, poor housing, and abuse all too often go hand-in-hand with the back-breaking work performed by the agricultural worker.

--Robert E. Collyer, Deputy Undersecretary
of Labor, Employment Standards
U.S. Department of Labor
September 14, 1982
Testimony before the U.S. House of
Representatives, Subcommittee on Labor
Standards, concerning proposed revision
of the Farm Labor Contractor
Registration Act.

Almost every meal we eat includes food harvested and processed by farmworkers. These hard-working people make a significant contribution to the diet and nutrition of their fellow countrymen. But at the same time they suffer themselves from undernutrition, poverty-level income, long and hazardous labor, substandard living conditions, and high rates of disease . . . an average life expectancy of 49 years and an infant/maternal death rate over twice the national average.

--CASJC Special Report: The Eastern Migrant Stream
Prepared by Franklin D. Williams and
Pamela Y. Williams for the Church
Action for Safe and Just Communities
Project (CASJC), April 1982, p. 36.

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CHAPTER 1

INTRODUCTION

Although estimates of the number of migrant workers on the Eastern Shore of Maryland vary considerably, at least 3,500[1] and perhaps as many as 8,000[2] migrant workers assisted with the growing and harvesting of agricultural crops on the tri-State Delmarva Peninsula during the 1982 season. According to the (Maryland) Governor's Commission on Migratory and Seasonal Farm Labor, "as many as 7,500 migrants come into Maryland each year to harvest crops and to work in orchards, in the tobacco industry, and on nursery farms."[3] These workers, part of the "Eastern Stream" of migrants on the east coast of the United States, are on the Eastern Shore of Maryland from late April or early May to late October. Among the crops that provide migrants jobs in Maryland are asparagus, strawberries, peas, cherries, snap beans, cucumbers, tomatoes, lima beans and baby lima beans, cantaloupes, watermelons, white potatoes, sweet corn, peaches, peppers, sweet potatoes, fall pickles, hay, tobacco, plums, and apples.[4]

The eastern migrant stream differs from the predominately Mexican American western and midwestern migrant streams in that it is made up primarily of blacks, including a growing number of Haitians, Jamaicans, and other West Indians, some

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[1]Baltimore Sun, February 25, 1982, editorial, p. A-14.

[2]Steve Nagler, executive director, Migrant Legal Action Program, briefing meeting for staff of the Mid-Atlantic Regional Office, U.S. Commission on Civil Rights, Washington, D.C., June 3, 1982 (hereinafter cited as Nagler Briefing).

[3]Stephen H. Sachs, attorney general, State of Maryland, et al., letter to Leon Johnson, Chairman, Governor's Commission on Migratory and Seasonal Farm Labor, July 19, 1982, p. 2.

[4]Church Action for Safe and Just Communities, The Eastern Migrant Stream: CASJC Special Report, prepared by Franklin D. Williams and Pamela Y. Williams, consultants, April 1982, p. 19 (hereinafter cited as CASJC Special Report); also Maryland State Department of Education, Migrant Education Branch, FY '83 Maryland Migrant Education State Plan, p. 53.

Hispanics, and relatively few whites.[5] These workers are part of a national system that employs 1.5 million or more people in migrant and seasonal farm labor. Their plight has been known publicly for years, but despite famous exposes such as Edward R. Murrow's television documentary, "Harvest of Shame", aired over 20 years ago, and despite numerous attempts at government intervention, little has changed for migrant workers nationally. As one church-based advocacy organization recently noted:

> Since 1960, ". . . the Federal minimum wage has been extended to cover agricultural workers (on some farms); crewleaders have been required to register with the Federal government; stricter housing codes have been enacted; open trucks have been outlawed; child labor laws beefed up; and migrant education programs . . ., special health clinics, daycare centers, and emergency aid programs developed by the Federal government." The problem with this impressive long list of reforms has been enforcement and funding, too little . . . too late.[6]

Interest in the lives of Maryland's migrant workers has been longstanding on the part of members of the Maryland Advisory Committee to the U.S. Commission on Civil Rights. Based on that history of interest, visits to migrant camps, and allegations[7] that the lives of Maryland's migrant workers continue to be dismal, the Maryland Advisory Committee held a forum in early August 1982 in Salisbury, Maryland, on the lower Eastern Shore, to hear from a variety of people about conditions faced by migrants. In some 9 hours of testimony, the Advisory Committee heard from a grower and operator of one of Maryland's largest migrant labor camps (Westover), a crewleader with 26 years of experience, several Haitian migrant workers, representatives of legal advocacy and private service organizations, and government officials at the Federal, State, and local levels.

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[5]CASJC Special Report, p. 17; also Nagler Briefing; also State of Maryland, Governor's Commission on Migratory and Seasonal Farm Labor, Annual Report to the Governor, December 31, 1981, p. 30-31 (hereinafter cited as Governor's Commission 1981 Annual Report).

[6]CASJC Special Report, p. 30, quoting John Moses, Jr., and Steven Petrow, Migrant Farmworkers in the East Coast Stream, final report for Youth-grants in the Humanities, Washington, D.C., August 25, 1980, p. 3.

[7]Patricia Fields, Governor's Commission on Migratory and Seasonal Farm Labor, telephone interview, June 15, 1982.

In keeping with the Advisory Committee's responsibility to inform the U.S. Commission on Civil Rights of the status of civil rights and of civil rights developments in the State of Maryland, this report summarizes the information gathered and lists the Committee's conclusions, findings, and recommendations.

CHAPTER 2

HOUSING

> Of all the Eastern Migrant Stream States, Maryland is one of the States most dependent on interstate farmworkers. The total farmworker population is 14,252, with 7,901 being interstate and foreign contract farmworkers. With such a large percentage of the farmworkers being from out-of-State, a major problem in Maryland has always been the question of living conditions for them.[8]

According to the Maryland Department of Health and Mental Hygiene, which has the major State responsibility for the inspection and licensing of migrant labor camps in Maryland, 33 migratory labor camps are located in the nine counties of Maryland's Eastern Shore (Caroline, Cecil, Dorchester, Kent, Queen Anne, Somerset, Talbot, Wicomico, and Worcester Counties).[9] All of these camps were issued permits to operate during the 1982 season. Their stated capacities range from an occupancy of 11, in the case of one Somerset County camp, to a high of 665, in the case of Westover Camp, located in Somerset County.[10] The total capacity of these camps in 1982 was 1,836.[11]

In 1981, 53 camps, with a total capacity of 1,609, were issued permits to operate on Maryland's Eastern Shore. In 1982, 33 camps, with a total capacity of 1,831, were issued permits to operate on the Eastern Shore. These 53 were largely the same as the 1982-licensed camps, according to DHMH.[12] The apparent decrease in numbers of camps statewide, as well as on the Eastern Shore, is due to a 1982 consolidation of separate components of the Westover Camp into one

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[8]CASJC Special Report, p. 22.

[9]State of Maryland, Department of Health and Mental Hygiene, "Eastern Shore Migratory Labor Camps," received by the Maryland Advisory Committee to the U.S. Commission on Civil Rights at its forum in Salisbury, Maryland, August 4, 1982; also David L. Resh, Jr., telephone interview, December 2, 1982.

[10]David L. Resh, Jr., letter to Yvonne Schumacher, January 24, 1983, with enclosures.

[11]Ibid.

[12]Governor's Commission 1981 Annual Report, pp. 18-20.

licensed entity in the eyes of DHMH. In actuality, the number of facilities is about the same in 1982 as in 1981.[13] Statewide, a total of 79 camps, with a total combined capacity of 2,344, were permitted to operate in 1981,[14] while in 1982, 57 camps, with a combined capacity of 2,554 were issued permits.[15]

According to Steve Nagler, Executive Director of the Migrant Legal Action Program, a national advocacy support organization, the quality of migrant dwellings is "unspeakable."[16] He told staff that the facilities are rundown and that frequently minimal or no toilet facilities are provided. Patricia Fields, Executive Director of the (Maryland) Governor's Commission on Migratory and Seasonal Farm Labor, told the Advisory Committee at the August forum:

> During the past 20 months, the Commission . . . has identified as priority certain issues concerning migrant labor. One specific issue is that of substandard migrant housing conditions.[17]

Citing one very large camp (Westover) as an example, she said:

> It was determined that the substandard housing conditions . . . could affect the health and safety of the camp residents. The substandard conditions ranged from structural problems to inadequate water supply. Apparently these problems have existed at the camp for years.[18]

And later in the forum she said:

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[13]David L. Resh, Jr., telephone interview, December 2, 1982.

[14]Governor's Commission 1981 Annual Report, p. 18.

[15]David L. Resh, Jr., telephone interview, December 2, 1982; also State of Maryland, Department of Health and Mental Hygiene, "1982 Annual Report on Migratory Labor Camps" submitted to the Governor's Commission on Migratory and Seasonal Farm Labor.

[16]Nagler Briefing.

[17]Maryland Advisory Committee to the U.S. Commission on Civil Rights, public forum on "Conditions in Migrant Labor Camps on Maryland's Eastern Shore", Salisbury, Maryland, August 4-5, 1982, transcript, Vol. II, p. 11 (hereinafter cited as Transcript).

[18]Transcript, Vol. II, pp. 11-12.

> Migrant housing in Maryland [is] being continually permitted year after year [despite] . . . health and safety violations.[19]

This assertion is corroborated by a comprehensive report of conditions in Maryland's migratory labor camps in 1982 that was submitted to the Advisory Committee early in 1983 by DHMH. That report reveals that of all of the 57 permitted camps Statewide, more than a third experienced major deficiencies in meeting established health and safety standards, and more than half experienced some deficiencies or violations, including those that might be viewed as quite minor. Among the 33 camps in Maryland's Eastern Shore, 55 percent experienced major deficiencies while 73 percent experienced at least some deficiencies. The report further shows that one camp (in Harford County, not on the Eastern Shore) was refused a permit to operate in 1982 because its deficiencies were so great--and yet it still operated to house migrants.[20]

Westover Labor Camp, located in Somerset County south of Princess Anne, Maryland, is one of the largest of the migrant camps in operation on the East Coast. It has been in operation for many years, with permits issued each year, although consideration has been given to closing the camp as long ago as 1973 because of its poor condition.[21] Probably because of its total size and its relatively easy access from one of the major highways in Somerset County, Westover has been the subject of intense scrutiny over the past 3 years. In September 1981, Representative Henry Gonzales (D-Texas) held hearings at Westover as a part of a nation-wide congressional inquiry into migrant living and working conditions.[22] Also in 1981, a feature series carried by the **Washington Post** focused in part on conditions at Westover.[23] Reporter Ward Sinclair wrote:

> Westover is a sprawling complex of two dozen barracks-type buildings, separated by stretches of grass and dirt roads. Families live in single-room units without running water. Most units have refrigerators and small gas plates for cooking; sometimes doors, sometimes not. The

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[19]Ibid, p. 19.

[20]Letter from David L. Resh, Jr., to Yvonne E. Schumacher, January 24, 1983, with enclosures.

[21]Transcript, Vol. II, p. 12.

[22]Gonzalez hearings, September 1981.

[23]Washington Post, "An Endless Season: Migrants of the East," five-part series, August 23-27, 1981.

> single window is sometimes screened, sometimes not. Latrines offer stools without stalls, gang showers with no privacy, grime-crusted lavatories . . . . [24]
>
> Just as prisons, ghettos, and sin strips have their own notoriety, the complex of long, gray weather-beaten buildings along the highway south of [Princess Anne, Maryland] has achieved a special renown. Past the creek where people fill their jugs with drinking water, up the dusty road past the signs that warn visitors away, around the ditches filled with stagnant water and the gaping bins of garbage, this is the Westover migrant farm labor camp . . . .[25]
>
> The Westover camp, once a World War II holding pen for German prisoners, has acquired such notoriety that migrants from as far away as Texas refuse to stay there . . . . [26]
>
> It is the biggest and most infamous among dozens of rundown camps amid the fecund vegetable fields on the Eastern Shore of Maryland, Delaware, and Virginia. Maryland's Commission on Migratory and Seasonal Farm Labor is so exercised about Westover that it wants Governor Harry Hughes to close the place.[27]

In 1981, a committee of the (Maryland) Governor's Commission on Migratory and Seasonal Farm Labor was formed to determine the fitness of the Westover Labor Camp and to make recommendations as indicated. After extensive field work and several meetings, that committee submitted a report to the Governor,[28] recommending that the operators of that camp utilize the Farmers Home Administration Section 514 funds

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[24]Ibid, part 4, August 26, 1981, p. A-16.

[25]Ibid, p. A-1. David Resh, Jr., indicated that the creek described herein is not a part of the labor camp and that camp occupants obtain their drinking water from four (4) new wells. According to Mr. Resh, this drinking water is free of nitrates and harmful bacteria. Telephone interview with MARO attorney, Robert Owens, April 29, 1983.

[26]Ibid, part 1, August 23, 1981, p. A-18.

[27]Ibid, part 4, August 26, 1981, p. A-1.

[28]State of Maryland, Governor's Commission on Migratory Labor, Westover Labor Camp: Recommendations and Report, submitted to Harry Hughes, Governor, State of Maryland, May 14, 1981, (hereinafter cited as Westover Report).

for the construction of new facilities at the camp; that authority for the inspection, permitting, and enforcing of regulations pertaining to migrant camp operations Statewide be revoked from local health departments and returned to the State level; and that if the operators of Westover did not make arrangements for the construction of new facilities by September 1981, the Governor should consider closing the camp.[29] These recommendations were based on the committee's findings that despite the fact that Westover had been permitted to continue in operation, conditions at the camp were appallingly substandard.

> During the past years, several agencies and organizations interested in migrant housing and concerned about conditions at the Westover Camp have explored with the Somerset Growers Association the options available for razing the camp and rebuilding the facilities to meet acceptable standards.[30]

Subsequent to the publication of the Westover committee report of the Governor's Commission, the Maryland Department of Health and Mental Hygiene (DHMH) did step up its enforcement role concerning Westover. During the fall of 1981 and winter of 1982, DHMH entered into negotiations with Somerset Growers Association, the operators of the Westover Camp. At the October 1981 meeting of the Governor's Commission, the DHMH Assistant Secretary told that group that "the basic choice to be made is whether the camp closes or is substantially rebuilt."[31] Ultimately, the State and the growers association agreed upon a 5-year timetable of renovations and facilities replacements that is intended to bring the camp up to standard by 1986.[32]

At the Advisory Committee's forum in Salisbury, the president of the Somerset Growers' Association, Edwin Long, Jr., described current conditions at Westover. Many improvements were completed this year on schedule according to the 5-year plan, and some work has been completed ahead of schedule. The cost to the growers association to begin to implement the provisions of the 5-year agreement was a quarter of a million dollars as of June 1982, according to

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[29]Ibid.

[30]Westover Report, p. 1.

[31]State of Maryland, Governor's Commission on Migratory and Seasonal Farm Labor, Minutes of October 14, 1981, Meeting, p. 2.

[32]Westover 5 Year Plan: Agreement & Consent Order in the matter of Somerset Growers, Inc., and the Secretary of Health and Mental Hygiene, March 12, 1982.

Long.[33] Yet, at the beginning of the 1982 season, the permit issued to the Westover operators was only provisional, because of 1982 deficiencies even as measured by the 5-year plan.[34] In mid-July, a full permit was issued by DHMH for the facility.[35]

Among the facilities now provided at the camp are garbage disposals, cooking facilities, refrigerators, beds or cots, tables, chairs, sanitized mattresses, mattress covers, smoke detectors, fire extinguishers, and first aid kits.[36] Migrant residents at Westover pay $5.00 per week per worker to the camp operators as a "service fee"[37] or "utility fee."[38] According to Long, this "reasonable fee" is charged for water and electricity; cooking gas is provided at no charge.[39]

Westover is not the only labor camp in the State that has a history of deficiencies. At a meeting of the Governor's Commission in October 1981, at which the Westover report and conditions at that camp were discussed, the assistant secretary for environmental programs for DHMH told that commission:

> As you are well aware the conditions at camp Westover have been of concern to a number of people including the State Health Department [DHMH] . [However] I think we should not allow the fact that camp Westover is the largest camp in the State overwhelm the fact that there are many other camps, from a sanitation and living condition perspective, that are probably worse

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[33]Notes from tour of Westover Labor Camp made by Maryland Advisory Committee member Chester Wickwire and MARO staff, June 30, 1982.

[34]State of Maryland, Governor's Commission on Migratory and Seasonal Farm Labor, Minutes of June 30, 1982, Meeting.

[35]State of Maryland, Department of Health and Mental Hygiene, "Eastern Shore Migratory Labor Camps," received by the Maryland Advisory Committee to the U.S. Commission on Civil Rights at its forum, August 4, 1982; also David L. Resh, Jr., telephone interview, December 2, 1982.

[36]Edwin Long, Jr., President, Somerset Growers Association, Transcript, Vol. I, pp. 47-8.

[37]Robert Neal, crewleader, Transcript, Vol. I, pp. 41-2.

[38]Edwin Long, Jr., president, Somerset Growers Association, Transcript, Vol. I, p. 48.

[39]Ibid.

> than Westover. Camp Westover by view of its size gets a lot of attention, as it should, but there are other camps that need attention as well.[40]

At a meeting with that same assistant secretary shortly before the Advisory Committee's forum, he told MARO staff and the chair of the Advisory Subcommittee that some of the migrant camps in the State were "garbage dumps," some of them worse than Westover ever was.[41]

At the Advisory Committee's forum, the chairman of the Governor's Commission made a similar point:

> [W]e have other camps in Maryland that need improvement . . . . It has been reported to the Commission that there were other camps in the State as bad as Westover, but no one has ever told us where those camps were located.[42]

Later in the forum, David Resh, another representative of DHMH who oversees the department's migrant camp licensing responsibilities, among other duties, and who reports to the assistant secretary quoted above, was asked directly which camps in Maryland are the worst in their overall condition. Neither he nor his colleague David Roberts, who also appeared at the forum, was able to answer the question specifically at the time of the forum. However, Roberts described to committee members some example of substandard conditions he encountered:

> Last year [1981] we found problems in some other camps which were major problems, and quite a few camps as well as Westover were placed on order to correct things. In Charles County, a big problem we found was that they [the migrant residents] weren't provided with eating facilities. In other words, they had to either provide their own facilities or they had to go off the camp premises to get food. They were placed under orders to provide those facilities and facilities have been built. Some of them aren't completely finished yet but for next year [1983] certainly we hope that they will all be in operation.

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[40]State of Maryland, Governor's Commission on Migratory and Seasonal Farm Labor, Minutes of October 14, 1981, Meeting.

[41]William Eichbaum, meeting with Maryland Advisory Committee member Chester Wickwire, MARO staff, and others, July 7, 1982; comments recorded in staff notes.

[42]Leon Johnson, chairman, Governor's Commission on Migratory and Seasonal Farm Labor, Transcript, Vol. II, p. 23.

> In Caroline County, we found quite a few problems in that the migrants weren't given the appropriate number of facilities that are required under our regulations. Orders were not issued on those camps but they have supplied those facilities. What I am referring to are things like correct number of showers, correct number of hand sinks, wash tubs for doing laundry, things of that nature. . . . In Caroline County, . . . some of the camps . . . were in pretty bad condition but I feel as though they are being improved.[43]

Later in the forum, Resh provided another example:

> We have one camp currently in Caroline County that has a problem as far as handling sewage, and an order has been issued on that facility for corrective action.[44]

When pressed for the names of the camps that were found to be in serious violation of the State's standards, Resh explained that although that information is a matter of public record, he could not name those camps and that no periodic "report card" or list of violators is made public by DHMH,[45] as is the case with respect to public health inspections of the State's restaurants.[46] Before the conclusion of the forum, however, Resh had agreed to provide the Advisory Committee with a list of camps with current violations and details about those violations.[47] A detailed narrative report of conditions in all of the camps Statewide was received by the Advisory Committee in late January 1983 and was summarized earlier in this chapter (pp. 8-11).[48]

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[43]Transcript, Vol. II, p. 74-5.

[44]Ibid, p. 77.

[45]Ibid, pp. 75-6.

[46]Ibid, pp. 77-8.

[47]Ibid, pp. 78-9 and 83-5.

[48]David L. Resh, Jr., Administrator with the Community Health Management Program of the Maryland Department of Health and Mental Hygiene indicated that this report of conditions could not be ascertained until after November 1982 because migrant camps continued to operate throughout the apple season which does not end until late November. Thus, in order to provide an accurate account of conditions in all migrant camps within the State, some delay was necessary. Resh telephone interview with MARO attorney, Robert Owens, April 29, 1983.

Overcrowding is a systemic problem of the migrant camps.[49] A comparison of two sets of figures---the estimate of migrants actually in the State (perhaps as many as 7,500) and the licensed capacity of the migrant camps (2,344 in 1981 and 2,554 in 1982)---readily shows that the available space in licensed facilities falls far short of the need. The difference between the two figures---perhaps as many as 5,000 people---may represent the extent to which migrants are living either in unlicensed facilities or are overcrowded in the permitted camps. There is no real way to know which portion of the difference belongs in which of these two categories.[50] Yet State officials know that some of the migrants are living in slums in town, isolated shanties, tents, trailers, even in cars and in the fields---all unlicensed and all escaping compliance with minimum safety and sanitation standards. DHMH officials told the Advisory Committee members:

> The farmers request a certain amount of people to come up to pick their crops. Quite frequently, the crewleaders will bring more people than are requested, and we run into a situation where there isn't sufficient housing for all these people. When we come across a situation like that, we will inform the farmers that there are too many people in the camp, that the number of people . . . exceed[s] their permit, and they will make some attempt to remove those people.
>
> That presents a problem. Where are those people going to go? There [isn't] any type of facility to absorb them. So we get a situation where many migrants come into the State and do not occupy permitted camps; they are going into other areas where people rent perhaps substandard housing to them. That is a situation we have very little control over.[51]

This same point was made at the forum by legal advocate Leonard Sandler:

> An increasing number of migrant camps are being established in private homes, renegade structures that are interspersed throughout local communities. Substandard, rickety, and overcrowded, as a rule, they are rarely discovered by inspections, investigated, or closed unless the conditions are

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[49]Numerous statements made at the forum; see, for example, Transcript, Vol. II, pp. 61-2, and other quotations below.

[50]Ibid.

[51]David Roberts, Transcript, Vol. II, pp. 61-2.

> exposed by the media or pressure is exerted by legislative representatives. The owners of these structures have never been fined or any action taken against them to our knowledge by State health authorities for the operation of these substandard migrant camps or for the operation of other structures they routinely provide which do not meet local and State regulatory guidelines.[52]

Health care provider Susan Canning raised the same issue, saying:

> Already we have seen a trend for freewheeling farmworkers who live in tenements in the inner poverty areas of some of our small towns, in cars, in buses, because no housing is available to them or camps have closed.[53]

Governmental Oversight

A number of government entities have authority to oversee migrant housing conditions in Maryland. The U.S. Department of Labor (DOL) has assumed the major responsibility at the Federal level, pursuant to provisions of the Farm Labor Contractor Registration Act (FLCRA),[54] the Wagner-Peyser National Employment System Act,[55] and the regulations of the Occupational Safety and Health Administration.[56] FLCRA is enforced by the Wage and Hour Division of DOL's Employment Standards Administration (ESA). The Wagner-Peyser Act established the U.S. Employment Service, run by DOL's Employment Training Administration (ETA).

(The Wage and Hour Division of the DOL is also responsible for the enforcement of the Fair Labor Standards Act of 1938,[57] which provides certain protections for migrant workers with respect to working conditions. These provisions will be described in Chapter 5, "Employment Issues".)

Because of its multifaceted authority with respect to migrant and seasonal farm labor, the DOL has established a National Farm Labor Coordinated Enforcement Committee to

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[52]Transcript, Vol. II, p. 114.

[53]Transcript, Vol. I, p. 100.

[54]7 U.S.C.A. section 2041 (1973).

[55]29 U.S.C.A. section 49 (1973).

[56]29 C.F.R. section 1910.42 (1982).

[57]29 U.S.C.A. section 201-219 (1978).

coordinate and strengthen all of its responsibilities regarding migrant workers.[58] Under the direction of an Undersecretary of Labor this national committee includes the Solicitor of Labor and the Assistant Secretaries of ESA, OSHA, and ETA.[59] Within the ten regions of the DOL, this coordinated enforcement effort is carried out by regional officials who are to tailor their coordination strategies to specific local conditions.[60] Among these coordination efforts are the establishment of a complaint/directed-action log[61] and the gathering of specified statistical data by each of the three DOL administrations involved with migrant workers.[62]

The Farm Labor Contractor Registration Act (FLCRA) provides certain protections for migrants with respect to housing as well as employment conditions. The act regulates the activities of farm labor contractors (crewleaders) by requiring them to register[63] and by setting forth standards to be met before registration is granted.[64] Among the FLCRA provisions are requirements that a prospective farm labor contractor file a statement identifying all housing to be used by the migrants of his crew(s),[65] as well as proof that all such housing conforms with all applicable Federal and State safety and health standards.[66] In addition, FLCRA requires[67] every farm labor contractor to disclose to each potential farmworker certain facts about the working and living conditions that workers will encounter, including the housing that will be provided for him or her. Also, FLCRA provides authority[68] for the Wage and Hour Division to conduct monitoring, investigations, and inspections of migrant living and working conditions and to maintain records of these conditions, including the housing

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[58] 29 C.F.R. section 42.3 (1982).

[59] 29 C.F.R. section 42.4 (1982).

[60] 29 C.F.R. section 42.20(3) (1982).

[61] 29 C.F.R. section 42.7 (1982).

[62] 29 C.F.R. section 42.21 (1982).

[63] 7 U.S.C.A. section 2043(a) (1973).

[64] 7 U.S.C.A. section 2044 (1973).

[65] 7 U.S.C.A. section 2044(a)(4) (1973).

[66] Ibid.

[67] 7 U.S.C.A. section 2045 (1973).

[68] Id. at section 2046.

facilities provided for the migrants. Finally, FLCRA provides sanctions (fines and/or imprisonment) for violations of the act.[69]

The Occupational Safety and Health Administration (OSHA) has enacted regulations that apply to temporary labor camps such as those occupied by migrant farmworkers.[70] Among the numerous requirements of these Federal regulations are standards such as:

1. the requirement that all camps be adequately drained;[71]

2. that all sites be adequate in size to prevent overcrowding;[72]

3. that grounds and surrounding shelters be maintained in clean and sanitary condition;[73]

4. that each room used for sleeping purposes contain at least 50 square feet of floor space for each occupant;[74]

5. that floors of each structure be constructed of wood, asphalt, or concrete;[75]

6. that all wooden floors be at least 1 foot above ground level to prevent dampness;[76]

7. that all exterior openings be screened;[77]

8. that an adequate and convenient water supply be provided in each camp for drinking, cooking, bathing, and laundry purposes;[78] and

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[69]Id. at section 2048.

[70]29 C.F.R. section 1910.42 (1982).

[71]29 C.F.R. section 1910.142(a)(1) (1982).

[72]Id. at (a)(2).

[73]Id. at (a)(3).

[74]Id. at (b)(2).

[75]Id. at (b)()4).

[76]Id.

[77]Id. at (b)(8).

[78]Id. at (c)(1).

9. that toilet facilities adequate for the capacity of the camp be provided.[79]

The Federal law that created OSHA encourages States "to assume jurisdiction responsibility for occupational safety and health matters."[80] Since 1973, the Maryland Occupational Safety and Health Administration (MOSHA) has assumed this responsibility.[81] MOSHA is a part of the Division of Labor and Industry of the Maryland Department of Licensing and Regulation.[82] As is required by the Federal law, the State counterpart enforces regulations that meet the Federal standards at a minimum.[83]

Therefore, the Federal OSHA does no inspections of migrant camps or workplaces in Maryland, but only monitors the operations of MOSHA.[84] The State agency covers all areas of occupational safety and health, including farm labor, with the exception of the maritime industries, which fall under Federal jurisdiction.[85] MOSHA receives Federal funds to accomplish this mission.[86] It should be noted that neither OSHA nor MOSHA has authority to order the closing of any camp for violations of applicable standards. However, OSHA is empowered to issue citations if violations or hazards are found.[87] Those citations establish abatement dates by which violative conditions must be corrected.[88] If cited conditions are not corrected by the scheduled abatement date, penalties of up to $1,000 per day may be imposed.[89] According to a representative of the Federal OSHA, MOSHA has been "effectively carrying out the program."[90]

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[79]Id. at (d)(1).

[80]29 U.S.C.A. section 667(b); Transcript, Vol. II, p. 38.

[81]Ibid.

[82]State of Maryland, Department of General Services, Maryland Manual, 1981-1982, (1981), p. 217.

[83]Transcript, Vol. II, p. 38-9.

[84]Transcript, Vo. II, p. 39.

[85]Ibid.

[86]Transcript, Vol. II, p. 41.

[87]29 U.S.C.A. Section 658(a).

[88]Id.

[89]Id. at Section 666(d).

[90]Transcript, Vol. II, p. 42.

408-721 O - 83 - 4

The Wagner-Peyser National Employment System Act created the U.S. Employment Service in 1933, in order to promote the establishment and maintenance of a national system of public employment. The act provides for the creation and Federal funding of State employment agencies that are to cooperate with the Federal Employment Service. In Maryland, the Maryland Employment Service within the Employment Security Administration of the Department of Human Resources provides a number of services for migrant and seasonal farmworkers, including referral to jobs, job development, referral to training programs, and referral to supportive services in the community such as educational programs, legal services, health clinics, daycare programs, food stamp offices, and other assistance.[91] They also provide a service to employers, namely the filling of available positions. In addition, after a job order if filed by a prospective employer,[92] the Maryland Employment Service conducts housing inspections before workers are referred to a particular farm labor position. These inspections are conducted in conjunction with the State and local health departments,[93] but access to the camps by the inspectors is controlled by the camp operators.[94] If, after being granted access, the inspectors find a given camp does not meet DOL and health department standards, the camps would not be permitted to open, according to the Assistant State Monitor-Advocate for Migrant and Seasonal Farmworkers within the Maryland Department of Human Resources.[95] This has not occurred within the 2 years prior to the Advisory Committee's August 1982 forum;[96] further, in the inspections that have been conducted, no significant problems were encountered by the inspectors, the Advisory Committee members were told at the forum.[97]

The role of the State employment service in controlling housing conditions for the migrant workers is relatively limited for a number of reasons. In addition to the apparently limited access of inspectors to the camps, most farm labor positions are not filled through that office. In 1982 only six farm labor orders were handled by that

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[91]7 C.F.R. section 1944.152 (1982).

[92]Transcript, Vol. II, p. 45 and 50; also 20 C.F.R. section 654, Subpart E (1981).

[93]Transcript, Vol. II, p. 5.

[94]Transcript, Vol. II, p. 45.

[95]Transcript, Vol. II, p. 50.

[96]Ibid.

[97]Transcript, Vol. II, p. 52.

agency--five for positions on the Eastern Shore (all in Dorchester County) and one in western Maryland.[98] The main function of the agency is to help workers find jobs, not to assure that housing meets standards, according to the Assistant State Monitor-Advocate who appeared at the forum.[99] Housing inspections are only conducted when employers request workers through the "clearance order" process, and not, apparently, when workers seek farm labor positions or other jobs. Most farm labor positions are filled through the farm labor contractor (crewleader) system. Kenneth Athey, of the Wage and Hour Division, told the Advisory Committee at the forum:

> Under the farm labor contracting system, the farm labor contractor acts as a middleman in recruiting and supplying farmworkers to farm operators. In addition to recruiting them, the contractor may also transport them long distances to the place of employment, supervise their work, pay them, and furnish their housing. . . . The Act (FLCRA) requires . . . that housing . . . meet Federal and State safety and health standards. . . . The Wage and Hour Division conducts housing, safety and health investigations under the FLCRA in those situations where the farm labor contractors are found to own or control the farm worker housing.[100]

Therefore, FLCRA is probably a more powerful statute for enforcing standards concerning the living conditions of the migrants than are the employment service laws and regulations. Nevertheless, the regulations promulgated under the Wagner-Peyser Act provide quite detailed standards for agricultural housing[101] because "the experiences of the employment service indicate that employees so referred" (agricultural workers recruited from outside the area of intended employment) "have on many occasions been provided with inadequate, unsafe, and unsanitary housing conditions."[102] These regulations provide that "employers whose housing was constructed in accordance with the ETA housing standards may continue to follow the full set of ETA standards . . . only where prior to April 3, 1980, the housing was completed or under construction, or where prior to March 4, 1980, a contract for the construction of the specific housing was

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[98]Transcript, Vol. II, p. 50.

[99]Transcript, Vol. II, p. 54.

[100]Transcript, Vol. I, p. 80.

[101]20 C.F.R. section 654.400 (1981).

[102]Id.

signed."[103] If the housing does not meet those criteria, then OSHA standards apply.[104] The standards are not identical; in some respects one set is more stringent; in other respects, the other set is more stringent.

Another Federal agency that has an impact on conditions in migrant camps is the Farmers Home Administration (FmHA) of the U.S. Department of Agriculture. That agency provides monetary assistance--loans and grants--for the development of housing in rural areas.[105] FmHA also provides rental assistance subsidies for low income farmworkers in order to reduce their housing costs.[106] A FmHA representative told Advisory Committee members at the forum that:

> the objective of this program is . . . to provide decent, safe, sanitary housing and related facilities for farm labor . . . where need exists. . . . We always should create a pleasing lifestyle to promote the human dignity and provide the pride among the tenants.[107]

Once FmHA financial assistance is sought and granted, then FmHA must assure that Federal, State, and local codes---whichever are the most stringent---are met with regards to construction, safety, sanitation, and health standards for that particular housing project.[108] Applicants for FmHA assistance must operate the proposed housing on a non-profit basis and be unable to provide the needed housing through other resources.[109] In addition, FmHA loans are secured with a mortgage for which personal liability is required of recipients, even if they belong to an association, corporation, or partnership.[110] Further, the housing developed with FmHA financial assistance cannot be reserved for any specific farmers, farmworkers, or crew-

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[103]Id. at section 654.401(a).

[104]Id. at section 654.401(b).

[105]42 U.S.C.A. section 1471 (1978).

[106]Transcript, Vol. II, p. 31.

[107]Transcript, Vol. II, p. 28.

[108]Transcript, Vol. II, p. 29.

[109]Transcript, Vol. II, pp. 28-29.

[110]Transcript, Vol. II, p. 29.

leaders.[111] Because of these and other restrictions,[112] the available FmHA funds have not been used in Maryland for large projects, although the need is undeniable.[113] Farmers interested in using the available FmHA resources are generally discouraged when the restrictions are made known to them. In the case of the Westover camp, mentioned earlier in this report, for example, unsuccessful FmHA efforts to encourage the camp operators to utilize available FmHA resources date back to 1974.[114] When the Maryland DHMH finally insisted that the Westover facilities be upgraded and negotiated a 5-year improvement plan with the camp owners, financing for the effort was obtained through private channels.[115]

New FmHA regulations issued in June 1982[116] may increase the willingness of Maryland farm owners to participate in the FmHA programs by liberalizing some of the standards that previously required housing to be fit for year-round occupancy.[117]

While several State agencies have some responsibility concerning migrant camps, the major responsibility at the State level for the inspection and licensing of migrant labor camps rests with the Maryland Department of Health and Mental Hygiene (DHMH), Office of Environmental Programs, Community Health Management Program. The requirements for the migrant camps that are enforced by that agency are contained in the Code of Maryland Regulations.[118] The regulations address the proper method for establishing a permitted migrant camp and the requirements for securing a permit for the camp annually. Among the specified requirements are standards for site location,[119] safety,[120] sanitation,[121]

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[111]Transcript, Vol. II, p. 29.

[112]Transcript, Vol. II, p. 35.

[113]Transcript, Vol. II, pp. 31-2.

[114]Transcript, Vol. II, p. 37.

[115]Resh, telecon, 12-2-82.

[116]7 C.F.R. section 1944.152 (1982).

[117]Transcript, Vol. I, p. 111; and Vol. II, pp. 29 and 36.

[118]COMAR, 10.16.01.01, et seq.

[119]Id. at section 10.16.01.03.

[120]Id. at section 10.16.01.03(a).

[121]Id. at section 10.16.01.03(c).

water supply,[122] sewage disposal,[123] housing,[124] and related facilities.[125] The regulations also provide a fine of $100 per day for any violations of the regulations.[126]

At the Advisory Committee's forum, DHMH representatives explained that enforcement authority has been delegated to the local (county) health officers by the Secretary of DHMH, although DHMH retains "concurrent authority."[127] DHMH and the local health officials understand that the local health departments are an extension of the State DHMH and that local health officers represent DHMH at the local level.[128] Therefore, at the State level, DHMH oversees the county inspections of migrant labor camps Statewide,[129] along with trailer camps, other types of camps, recreational sanitation, product safety, and noise problems.[130] DHMH expects the counties to conduct the actual inspections necessary for a camp to secure a license and to forward documentation of inspections and permits to DHMH for its review. This expectation is reiterated annually by memorandum from DHMH to the local health officers.[131] The staffing of DHMH does not permit direct and frequent inspection of individual camp sites; only one staff member in the central office monitored the local licensing activities Statewide at the time of the forum, and that person also performed other duties.[132] Apparently the State-level office only gets more directly involved when the operation of a particular camp becomes especially problematic and/or controversial, as, for example, was the case with the Westover Labor Camp.

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[122]Id. at section 10.16.01.04(a).

[123]Id. at section 10.16.01.04(b).

[124]Id. at section 10.16.01.04(d).

[125]Id. at section 10.16.01.04(e)(f)(g)(h)(i).

[126]Id. at section 10.16.01.05.

[127]Transcript, Vol. II, p. 56.

[128]Transcript, Vol., pp. 56 and 94-5.

[129]Transcript, Vol. II, p. 60.

[130]Transcript, Vol. II, p. 57.

[131]Transcript, Vol. II, p. 64; an example is memo of 4-12-82 from Eichbaum to local officials, Subject: migrant labor camps.

[132]Transcript, Vol. II, pp. 79-80.

Summary and Conclusions

Numerous governmental authorities are empowered at the Federal, State, and local level to enforce standards that could improve conditions in the migrant camps. In 1982, many of these camps in Maryland were significantly deficient in meeting health and safety standards and yet were permitted to continue operating.

CHAPTER 3

HEALTH AND SAFETY

Statistics gathered by the Migrant Legal Action Program, Inc., reveal that the national average life expectancy among migrant workers is 49 years, compared to a national life expectancy in the general population of 73 years.[133] The rate of infant mortality is two to three times the national average.[134] Among the factors contributing to this high rate of early death among migrants are poor sanitation, poor nutrition, alcoholism and drug abuse, and exposure to pesticides and herbicides.[135]

According to the East Coast Migrant Health Project, the high rate of disease among the east coast migrants of the U.S. may be linked to four major categories of causes:

1) Nutritional diseases, such as anemias, eye and skin disease, dental caries and bone malformations, high blood pressure and cardiac complications, vessel abnormalities, and diabetes;

2) Sanitary diseases, such as hepatitis, diarrhea, food poisoning, worm infestation, and rodent and insect bites and contamination;

3) Occupational diseases, such as fractures, loss of limbs and nails, muscle damage from stoop labor, and skin and lung damage from pesticide and weather exposure; and

4) Social and communicable diseases, such as tuberculosis, venereal disease, childhood diseases incurred because of a lack of immunization, viral complications from colds and influenza; sickle cell anemia; and mental health problems, such as child and spouse abuse and other psychological disorders resulting from continual oppression and deprivation.[136]

At its forum in Salisbury, the Maryland Advisory Committee was also told that some of the older farmworkers have been in the eastern migrant stream for 20 years or more. Susan

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[133]Nagler Briefing.

[134]Ibid.

[135]Ibid.

[136]CASJC Special Report, p. 9.

Canning, Executive Director of Delmarva Rural Ministries, an organization that provides primary health care to migrants on the Delmarva Peninsula, said of these older workers:

> Some of these people are now permanently disabled, and we find it very, very difficult, because no State claims them as their resident, to place them in some type of custodial care.[137]

Canning informed the members of the Advisory Committee that "among the all-male crews in particular," chronic alcoholism is seen as "a dominant health care problem."[138] Related to this point, when she was asked which of the currently applicable sets of laws or regulations seemed to her to be the weakest or to need the most improvement, Canning responded that problems with safety in the camps contributed to the most serious problems that she and her staff saw in their clinics.[139] Traumatic injuries are caused by unsafe conditions in the camps as well as by worker drinking, alcoholism, and fighting among themselves, she said.[140]

According to Legal Aid Bureau attorney Leonard Sandler, however, a major cause of traumatic injury to the migrant workers is their physical abuse at the hands of the crew leaders. Sandler told the Advisory Committee members at the forum:

> . . . [M]igrant workers are under the constant threat of assault by crewleader employees. This season, several serious assaults on Haitian workers by crewleader employees left workers unable to pursue their livelihood and seriously injured. The problem of physical abuse is further compounded by the difficulty and resultant failure to prosecute the transient employees. The recent criminal convictions for peonage in the East Coast migrant stream underscore the violent tactics used to coerce obedience from our highly vulnerable client community, which is normally thousands of miles from home without financial or other resources, stranded from any other help besides advocacy groups.[141]

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[137]Transcript, Vol. I, p. 96.

[138]Ibid, p. 97

[139]Ibid, p. 105.

[140]Ibid.

[141]Ibid, pp. 115-6.

In the view of representatives of the legal advocacy groups who work with the migrants, however, one of the most critical health problems encountered by the migrants is their exposure to the toxic chemicals that are regularly used in their work environment.[142] According to the executive director of the Migrant Legal Action Program, the use of pesticides in "agribusiness" has risen tremendously within the last few years.[143] This fact, coupled with the lack of sanitation measures such as clean water for toilet and hand-washing facilities for the workers in the fields, means that pesticide poisoning is "endemic."[144]

In addition to direct exposure to the pesticides, a related health problem for the migrant workers is "the hazardous nitrate levels in the migrant camp water systems throughout the State."[145] According to Leonard Sandler, staff attorney with the Legal Aide Bureau in Salisbury:

> The problem is particularly marked in Dorchester and Caroline Counties this season [1982]. In some locations, the nitrate levels in the water are almost double the maximum allowed pursuant to State and Federal law. To the present, the only precautions which have been taken by the State to protect the numerous pregnant women and infants who are particularly susceptible to the danger of this problem is to encourage posting at the camps. The majority of affected workers are forced to purchase bottled water. Women who may not be aware of their pregnant condition continue to consume the water at the camp. Many workers do not understand the serious harm that may be caused by consuming the water, and others are not able to procure the bottled water. The death of an infant or prenatal mortality is not an unlikely possibility this season as a result of this health hazard.[146]

According to Sandler, this high nitrate level comes from the herbicides and pesticides that are used by the growers for the crops.[147] State and local health department officials deny that the nitrate problem is as serious as is portrayed

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[142]Nagler Briefing; also, Leonard Sandler, Transcript, Vol. II, pp. 114A, 114B, and 119.

[143]Nagler Briefing.

[144]Ibid.

[145]Transcript, Vol. II, p. 114A.

[146]Ibid, pp. 114A-B.

[147]Ibid, p. 119.

by Sandler.[148] They contend that the provision of supplemental bottled water for very young children and infants is commonplace when nitrates are found in the water and that such provision is a sufficient precaution under health department requirements.[149] One local health officer told Advisory Committee members that there was no problem of nitrates in the water in her county, and that the objections raised by drinkers of the water were based upon the taste of the natural and safe minerals in the water of that part of the State.[150]

Good health in the migrant population is also impeded by a lack of a good diet for many of these workers. Susan Canning told Maryland Committee members at their forum:

> I hear comments quite often from some growers and some State **agencies** that if you give the farmworker food stamps that he has no incentive to work even though it has been well documented that farmworkers are under poverty wages and they have every right to this subsidy that is provided by the Federal government.
>
> There is in some counties resistance to opening the food stamp offices in the evening so that farmworkers will not miss days of work, so they can apply for the food stamps.[151]

Attorney Sandler, of the Legal Aid Bureau, also spoke of the food stamp problems encountered by migrants:

> Unfortunately an inordinant amount of our time and resources is spent assisting our farmworker clients in obtaining the food stamp benefits to which they are entitled. When migrants in this area apply for food stamps, it is usually because they have been paid little or nothing by their crewleaders and, as a result, are without the means to provide any food for themselves or their families. Despite the fact that they may be eligible for food stamps, these workers are often

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[148]Dr. Gladys M. Allen, Somerset County (Maryland) Health Department, Transcript, Vol. II, pp. 96-7, 199-200; David L. Resh, Jr., telephone interview, December 2, 1982.

[149]David L. Resh, Jr., telephone interview, December 2, 1982.

[150]Dr. Allen, Transcript, Vol. II, pp. 199-200.

[151]Transcript, Vol. I, p. 97.

> needlessly frustrated in their attempts to obtain them.[152]

Sandler continued by explaining that the major food stamp hurdles migrants faced were a lack of transportation for the migrants to the food stamp offices, the lack of an adequate outreach program for the food stamp representatives to assist the migrants in their camps, and language barriers.[153] Moreover:

> Even if a farmworker can be transported to a food stamp office and is able to communicate with the social service worker, social service employees are frequently not acquainted with all of the Federal regulations governing disbursement of the food stamps to destitute migrant households, and these regulations are applied in an uneven fashion as interpreted by local offices. Consequently, benefits are often wrongfully denied or delayed.[154]

Of course even the problems of transportation to and from the grocery stores in nearby towns can be, for the migrants, a formidable obstacle to obtaining a sound diet at reasonable prices.

Summary and Conclusions

Health conditions among migrant workers in Maryland are typically very poor. Migrant workers suffer and die at an early age because of poor sanitation and safety measures in their living and working environments, continual exposure to pesticides and herbicides, physical abuse from crewleaders and from each other, nutritional deprivation, and inability to receive such needed assistance as ongoing personal medical care and food stamps.

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[152]Ibid, Vol. II, p. 114B.

[153]Ibid, pp. 114B-115.

[154]Ibid, p. 115.

CHAPTER 4

ACCESS, COMMUNICATION, AND TRANSPORTATION

Because the farms on which the migrants work are, by definition, located in the rural areas of Maryland, the camps in which migrants live are similarly isolated in most instances. In addition to their geographic isolation, other factors that serve to cut off the migrants from the world at large are their dependence on crewleaders or others for transportation from the camps to their jobs, into nearby towns, or to their next worksite; a scarcity of phones available to the migrants in the camps;[155] and difficulties in getting mail to and from a transient population.

Another factor overriding these other difficulties for a growing proportion of the migrant labor force in Maryland is a language barrier. Few of the Haitians, whose numbers are rising among the migrants in Maryland, are fluent in English. They speak Creole. Even those five Haitian migrants who appeared at the Advisory Committee's forum were unable to speak directly with the members of the Committee but, rather, spoke through an interpreter.[156] Other migrants in Maryland speak only Spanish.

This language barrier makes every aspect of life in the United States difficult for the non-English speaking migrants. In some instances, translators and/or bilingual written materials are available---for example, in the administration of some of the government programs available to the migrants. Some of these bilingual materials were supplied to the Advisory Committee at the August forum. But on a day-to-day basis, the fact that many of the migrants are unable to communicate directly with the crewleaders, the camp managers, the growers, and others, such as government inspection officials, increases the likelihood that these workers will be treated unfairly and improperly under applicable laws and regulations. Legal advocate Sandler told the Advisory Committee members at the forum:

> Federal, State, and local authorities which are empowered to regulate and oversee the camp conditions and the delivery of services and the

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[155]The president of the Somerset Grower's Association told the Advisory Committee members at the forum that Westover labor camp, with its population of at least 600, provides migrants "three unrestricted pay telephones . . . available 24 hours a day for emergency calls for ambulances and hospitals or for personal calls." Transcript, Vol. I, p. 49.

[156]Transcript, Vol. II, pp. 184-192.

> disbursement of benefit programs are necessarily handicapped, with few exceptions, by their inability to communicate with the workers. Outreach workers, with few exceptions, cannot speak Creole or Spanish and they must rely exclusively on the representations of crewleaders and growers, whose posture is antithetical to the interests of the workers in such matters as food stamps, housing, wages, and other conditions which affect profits, which we contend is the bottom line in the equation of farm economics.[157]

Furthermore, even where bilingual written materials are made available, they are not useful because some of the migrants are illiterate. Of the five Haitian migrant workers who appeared at the forum, three had no formal education whatsoever, one had only a fifth grade education, and one had a ninth grade education.[158]

Denial of access by outsiders to the migrants at their residences in the camps has been another major factor contributing to their isolation and to their being deprived of basic services such as health care. This issue of access to the workers in the camps is one of the four priority areas identified by the Governor's Commission on Migratory and Seasonal Farm Labor for its immediate attention.[159] At its meeting in June 1982, the Governor's Commission voted in favor of a policy stance in support of free and open access to the workers where they live.[160] At that meeting, Commission member Marlene Kiingati questioned how the domicile of a migrant worker could be differentiated legally from the domicile of any other renter and strongly objected to the notion that camp operators have the right to deny camp dwellers the right to receive visitors at their homes.[161] A Governor's Commission committee member reported that various service and legal advocacy organizations have had varying experiences seeking access; that legal services have been limited considerably; that some social service groups have been given a certain amount of access; and that news

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[157]Ibid, pp. 113-4.

[158]Ibid, p. 189.

[159]Patricia Fields, executive director, Governor's Commission on Migratory and Seasonal Farm Labor, Transcript, Vol. II, p. 14.

[160]State of Maryland, Governor's Commission on Migratory and Seasonal Farm Labor, Meeting Minutes from June 30, 1982.

[161]Ibid, also notes taken by MARO staff attending that meeting.

media groups have largely been denied access.[162] Even certain government agencies that are charged with the inspection of camp facilities as a part of their compliance activities may be denied access to the camps.[163]

In July 1982, in response to a request from the Governor's Commission, the Office of the Attorney General of the State of Maryland issued an Attorney General's opinion on this issue.[164] At the Advisory Committee's forum, Assistant Attorney General Catherine Shultz described this opinion:

> [The Attorney General's Office was asked] . . . whether migrant workers, while residing in housing provided by farmers, growers on privately owned migrant labor camps in this State, have the legal right to receive guests and to be visited by clergy, medical and other service personnel, lawyers, and the press.
>
> On July 19, 1982, Attorney General Sachs issued an opinion which concluded that migrant workers have the legal right to receive guests in their living quarters and to be visited by the clergy, medical and other service personnel, lawyers and the press, subject only to such reasonable and necessary rules established by the camp owners as are designed to protect the owners' legitimate business and security interests, and as do not deny or seriously infringe upon the legal rights of migrants.
>
> We concluded that as a matter of property law, mere ownership of a labor camp does not carry with it the right to cut off the fundamental rights of those who live in the camp.[165]

With respect to the camp owners' legitimate interests, Shultz explained:

> [M]igrant labor camp owners may reasonably require that visits to migrants take place in a manner that does not interfere with the harvesting of crops or with the need to protect the security of

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[162]Ibid.

[163]See, for example, statement of Angelica Jimenez Howe, State of Maryland, Department of Human Resources, Employment Security, Transcript, Vol. II, p. 45 and pp. 52-3.

[164]Opinion No. 82-024 (July 19, 1982), (to be published at 67 Opinions of the Attorney General (1982)).

[165]Ibid.

> employees, migrants, and property. We noted that the labor camp owner may reasonably require a visitor to identify him- or herself and that if a migrant worker has not already informed the camp owner that a visitor is expected, the camp owners may ask the visitor to state the general purpose of the visit. However, once the camp owner has been informed that a visitor is expected, the camp owner may not invade the migrants' privacy by inquiring into the specific nature or purpose of the visit.
>
> It is the right of the migrant and not the camp owner to refuse to receive uninvited visitors. . . . [T]he camp owner may not purport to exercise this right on behalf of the migrant worker. The camp owner may not deny the migrant his privacy or interfere with his opportunity to live with dignity and enjoy associations customary among our citizens.[166]

According to the president of the Somerset Growers Association, access is now permitted to the workers in the camps at Westover by health workers who were previously denied the same degree of access.[167] Advisory Committee members were told by Susan Canning of Delmarva Rural Ministries, which operates a clinic on the camp site, that since the issuance of the Attorney General's opinion, her organization has not had any quarrel with access procedures. However, the executive director of the Governor's Commission on Migratory and Seasonal Farm Labor reserved judgment on how well the new principle would be accepted by the camp operators across the State. She told the Committee:

> I feel very good with the gains that we have made up to this point. However, it is too early to say that those issues have been completely resolved. There has not been enough time to really assess the benefits and the gains, and I think we need some more time to see how the access issue is going to work . . . . I think only time can tell us that.[168]

In fact, Assistant Attorney General Shultz mentioned that members of the press were still having difficulties gaining access to residents of the camps.[169]

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[166]Ibid, pp. 87-8.

[167]Transcript, Vol. I, p. 49.

[168]Ibid, Vol. II, p. 25.

[169]Ibid, p. 90.

Summary and Conclusions

Migrant workers experience added hurdles in their efforts to improve the quality of their lives because of their general isolation from mainstream society. A growing proportion experience language difficulties because of their illiteracy and/or lack of fluency in English. Phones are scarce or nonexistent, and migrant camps and worksites are typically miles away from towns and cities, in the rural areas of the State. The workers and their families are generally dependent upon crewleaders to provide them transportation for such basic necessities as food supplies and medical care, or are reliant upon care-givers and service-providers to come to them. Access to the workers and their families in the camps was very problematic until this past summer's opinion issued by the Attorney General, which paved the way for more open access to the migrants where they live.

CHAPTER 5

EMPLOYMENT

Among the most serious difficulties encountered by the migrants are those that arise directly from the workers' employment relationships with crewleaders and growers. One of the primary reasons that the lives of migrant farm workers continue to be as bleak as they are is their exploitation as workers, which denies them the resources to support a better way of life for themselves. At the forum, Advisory Committee members were told of physical abuse and intimidation of workers by crewleaders,[170] questionable recruitment practices,[171] failure to pay workers appropriate wages for their labor,[172] the use of young children for work in the fields, the abandonment of workers by crewleaders far from their homes,[173] misrepresentation of working terms and conditions by crewleaders,[174] failure to provide contracts and meaningful pay statements to workers,[175] and "a uniform failure" by growers and crewleaders to keep proper records that document work performed, deductions taken, and wages paid.[176] In legal advocate Sandler's eyes, the consequence of all of this is that migrant workers are held "in a state resembling economic peonage."[177]

Jean Yves Point du Jour, formerly with the Legal Aid Bureau on the Eastern Shore and currently with the Lawyers Committee for Civil Rights, told the Advisory Committee at the forum that the average net amount of weekly earnings for migrant workers is between $25-50.[178] Five Haitian migrant workers who appeared at the forum told staff that their net wages the previous week, at the height of the

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[170]Transcript, Vol. II, pp. 115 and 173.

[171]Transcript, Vol. I, p. 96.

[172]Transcript, Vol. II, p. 114.

[173]Transcript, Vol. II, p. 113.

[174]Ibid.

[175]Transcript, Vol. II, pp. 172 and 177.

[176]Transcript, Vol. II, p. 130.

[177]Transcript, Vol. II, p. 114A.

[178]Transcript, Vol. II, p. 177.

migrant season on the Eastern Shore, had been $4.50, $2.50, $7.00, $3.50, and $4.50 respectively, earned in the harvesting of tomatoes and cucumbers.[179]

If weather is bad and there is no work as a result, the workers do not get paid. If there is crop damage or failure, they are not paid. If there are too many people brought to a worksite and work is not available for all, those who are available but do not work do not get paid. If a crew runs out of baskets or buckets in which to put the harvested crops, they do not get paid. Yet even if the workers do not get paid, they are still held responsible for the payment of their housing expenses and somehow they still have to provide other necessities for themselves and their families. This sometimes leads to worker indebtedness to crewleaders and then to additional deductions taken from future wages to repay these loans.

For those who do work, pay is usually based on piecework: for example, $.40 per bucket of tomatoes or cucumbers. Therefore, with no records, the workers "many times . . . are cheated"[180] and paid for less than they actually produced, and then are threatened with eviction if they challenge the amount they are paid. Attorney Sandler told Advisory Committee members:

> This season alone we have recorded hundreds of instances of improper wage payments. Crewleaders fail to pay the minimum wage (and) . . . they refuse to take legal deductions from the wages. . . . Workers in Maryland have reported earnings of as little as one-half dollar for one week's labor in the fields. The crewleaders frequently hold a large portion of earnings for rent and utilities and food delivery, often leaving no money for the purchase of basic subsistence amenities.[181]

Later he said:

> There are wrongful deductions being withheld and there have been instances where social security is being withheld and there have been no payments made

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[179]Wanda Hoffman, MARO staff, August 5, 1982.

[180]Transcript, Vol. II, p. 182.

[181]Transcript, Vol. II, p. 114A.

> on behalf of the workers.[182] . . . I have yet to find out where the money disappears to.[183]

In further discussion about the applicability of Federal minimum wage laws, Sandler told the Committee that the mandated $3.35 per hour is not paid on a regular basis.[184] The intricacies of the law regarding minimum wage calculation when the production is by piece rate and not by units of time make it difficult for the workers and their advocates to determine whether pay is proper and adequate.[185] This difficulty is compounded by the lack of reliable recordkeeping on the part of growers and crewleaders.

With respect to recruitment practices, Sandler told the Advisory Committee that many migrants are induced to come to Maryland by promises of regular work that are not often kept. Other questionable recruitment efforts were mentioned by Susan Canning, who said:

> We continue to see on Delmarva individuals who are highjacked from the boweries of the city of Baltimore, New York, Philadelphia. We also see occasionally deinstitutionalized mental patients from the city who have no business in farm labor and (who are) picked up by unscrupulous crew leaders.[186]

Canning also mentioned other employment difficulties encountered by the migrants. She said, "unemployment compensation for farmworkers, if reported, is almost impossible for the farmworkers to collect."[187] Also, workers compensation benefits for on-the-job injuries are available, but "it takes a little tenacity to go after it and get it."[188]

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[182]Transcript, Vol. II, p. 121.

[183]Transcript, Vol. II, p. 131.

[184]Transcript, Vol. II, p. 126.

[185]Transcript, Vol. II, p. 130.

[186]Transcript, Vol. I, pp. 96-7.

[187]Transcript, Vol. I, p. 96.

[188]Transcript, Vol. I, p. 106.

Federal, State, and Local Authorities

At the Federal level, the major authority for the enforcement of employment laws and regulations pertaining to migrants rests with the U.S. Department of Labor (DOL). The Farm Labor Contractor Registration Act (FLCRA),[189] mentioned earlier, and the Fair Labor Standards Act of 1938,[190] both administered by the Wage & Hour Division of the DOL, are the key laws.

FLCRA requires each crewleader to inform prospective crew members at the time of recruitment a number of facts about their prospective employment, including where they will be employed, with what crops and operations, what wage rates they will be paid, what services the crewleader will provide, if any, and at what costs, and for how long employment may be expected to continue.[191] Where the crew leader is responsible for paying the workers, FLCRA requires the crewleader to maintain payroll records that document for each worker total earnings in each payroll period, all monies withheld from wages, and net earnings.[192]

The Fair Labor Standards Act sets minimum wages,[193] maximum hours,[194] and other related employment standards such as those pertaining to child labor,[195] piece work,[196] and irregular hours.[197]

In fiscal year 1982, the Employment Standards Administration's Wage-Hour Division conducted seventy-seven (77) compliance actions under the Farm Labor Contractor Registration Act (FLCRA) on Maryland's Eastern Shore.[198] These investigations required the expenditure of 989 man

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[189]7 U.S.C.A. section 2041 (1973).

[190]29 U.S.C.A. section 201-219 (1978).

[191]7 U.S.C.A. section 2045 (1973).

[192]Id.

[193]29 U.S.C.A. section 206(a)(1) (1978).

[194]Id. at section 207(a)(1).

[195]Id. at section 212.

[196]Id. at section 207(g)(1).

[197]Id. at section 207(f).

[198]Charles M. Angell, Regional Administrator for Employment Stanndards, letter to Edward Rutledge, Regional Director, U.S. Commission on Civil Rights, dated April 25, 1983.

hours.[199] Twenty-four (24) housing inspections were conducted, fifteen (15) of which disclosed violations of the safety and health provisions. In twenty-eight (28) of the investigations, concurrent investigations were conducted under the Fair Labor Standards Act (FLSA).[200] These investigations found that $22,078 was due to 141 employees under Section 6 of the FLSA.[201]

The U.S. Employment Service has promulgated lengthy and detailed requirements specifying special efforts to be made by State employment services with respect to migrant and seasonal farmworkers, among others.[202] Among these special services required by the regulations for farmworkers are bilingual (Spanish and English) job vacancy information,[203] special assistance with the completion of job applications,[204] and bilingual (Spanish and English) explanations of all services available through the employment service office.[205] The regulations also provide for special referral services for farmworker family members, farm labor contractors, and crew members, provided that each such person has properly registered with the employment service office and/or the Employment Standards Administration (pursuant to FLCRA).[206] In addition, the Federal employment service regulations mandate outreach by the State agencies to migrant and seasonal farmworkers, in coordination with public and private community service agencies,[207] so that migrants are aware of the services available to them through the job service, the channels available for the filing of complaints, and their rights with respect to the terms and conditions of their employment. The outreach effort is limited by regulation, so that:

> . . . outreach workers shall not enter work areas to perform outreach duties described in this section on an employer's property without the permission of the employer, unless otherwise

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[199] Ibid.

[200] Ibid.

[201] Ibid.

[202] 20 C.F.R. section 653.100 (1981).

[203] Id. at section 653.102.

[204] Id. at section 653.103.

[205] Id. at section 653.107(j)(1).

[206] Id. at section 653.104.

[207] Id. at section 653.107(a).

> authorized to enter by law, shall not enter workers' living areas without the permission of the workers, and shall comply with the appropriate State laws regarding access.[208]

These special employment service regulations for farmworkers also provide for "State agency self-monitoring."[209] As explained by these regulations, State agencies are to "monitor their own compliance with JS (job service) regulations in serving MSFW's on an ongoing basis.[210] Regulations further provide that "the State MSFW Monitor Advocate shall have direct, personal access to the State Administrator . . .[211] and shall be assigned staff necessary to fulfill effectively all of his/her duties as set forth in this subpart."[212] In addition, the Monitor Advocate is responsible for ongoing review and formal monitoring of services provided to MSFWs,[213] corrections of deficiencies, development of a "written corrective action plan."[214]

The regulations also provide detailed requirements for representative staffing of the State agency and affirmative action steps to be taken to assure proportional distribution of racial and ethnic minorities, including those of MSFW populations in the area.[215] These affirmative action regulations specifically mandate "special efforts to recruit MSFWs and persons from MSFW backgrounds for its staff."[216] The final section of these special regulations for "MSFWs" provides:

> a) If a State agency employee observes, has reason to believe, or is in receipt of information regarding a suspected violation of employment related laws or JS regulations by an employer, . . . the employee shall document the suspected violation and refer this information to the local office manager.

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[208]Id. at section 653.107(v).

[209]Id. at section 653.108.

[210]Id. at section 653.108(a).

[211]Id. at section 653.108(c).

[212]Id. at section 653.108(d).

[213]Id. at section 653.108(g)(1).

[214]Id. at section 653.108(h)(5).

[215]Id. at section 653.111.

[216]Id. at section 653.111(c).

b) If the employer has filed a job order with the JS office within the past 12 months, the local office shall attempt informal resolution. If the employer does not remedy the suspected violation within 5 working days . . . the violation shall be referred to the appropriate enforcement agency in writing.

c) If the employer has not filed a job order with the local office during the past 12 months, the suspected violation of an employment related law shall be referred to the appropriate enforcement agency in writing.[217]

Summary and Conclusions

Migrant workers are exploited in the workplace. Typically they receive extremely low pay while laboring under some of the worst conditions known in this country. Many of the applicable State and Federal laws are not enforced, so their protections are not guaranteed for the migrants.

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[217]Id. at section 653.113.

CHAPTER 6

EDUCATION

According to Ronn E. Friend, Chief of the Migrant Education Branch of the Maryland State Department of Education, "the migrant lifestyle limits educational opportunities for growth and progress."[218] He told the Advisory Committee members at the forum:

> Because [migrant] families move following the seasonal crops, these children must adjust to frequent changes in schools, teachers, classmates, and curriculum. Just as their life is itinerant, so is their education.
>
> The educational needs of migrant children extend from preschool to the secondary years. The magnitude of their educational needs is evident in the minute number who eventually complete high school.[219]

Friend underscored the importance of viewing migrant children's educational needs from a national perspective, and said they should not be considered the particular problem of an individual State or school district. For this reason, some of the statistics he provided to the Advisory Committee largely painted a national, rather than local, picture of the educational deprivation suffered by the children of migrant families. Among the bleak national facts he summarized at the forum are the following:

> Migrant children are the most academically disadvantaged of all groups qualifying for compensatory education.[220]

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[218]State of Maryland, Department of Education, "Maryland Migrant Education Programs," received by the Maryland Advisory Committee to the U.S. Commission on Civil Rights at its forum in Salisbury, Maryland, August 4, 1982; (hereinafter cited as Friend Statement).

[219]Friend Statement, p. 1.

[220]Friend Statement, p. 1; also National Coalition on Migrant Education. Fact Sheet on the Title I Migrant Education Program. Washington, D.C., 1982.

> The rate of enrollment in schools is lower for migrant children than for any other group of children in the United States.[221]
>
> The estimated median educational attainment among migrant agricultural workers is 5.3 grades.[222]
>
> Only 4 out of 10 migrant children enter the 9th grade and only 1 in 10 enters the 12th grade.[223]
>
> Less than 10 percent of migrant children graduate from high school.[224]
>
> Migrant children frequently do not master the basic academic skills of reading, writing, speaking, and calculating that are necessary to continue and advance within the regular education system.[225]

In Maryland, most of the migrant workers are in the State between June and August, when most traditional school programs are in summer recess. However, summer school programs are offered especially for migrant children in the areas of the State where most of the migrant population is concentrated. According to Friend:

> The Maryland State Department of Education has worked closely with local school systems in planning and instituting programs for migrant children. Presently [1982] seven school systems maintain programs to serve their migrant students; six of these systems are located on the Eastern Shore.[226]

Friend told the Advisory Committee that 840 students were enrolled in these programs in Maryland during the 1982 summer, distributed among the seven counties. Of these seven counties, the largest number of students (38 percent) were in Somerset County, also the location of the largest migrant camp (Westover). Friend also provided statistics of the age and ethnic makeup of these migrant students, as follows:

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[221]Friend Statement, p. 1; also National Association of Farmworker Organizations.

[222]Friend Statement, p. 2.

[223]Ibid.

[224]Ibid.

[225]Ibid.

[226]Friend Statement, p. 3.

Age	Number	Percent	Origin	Number	Percent
0-4	244	29	Mex-Amer.	362	43
5	58	7	Black	267	32
6-14	367	44	Haitian	77	9
15-21	171	20	White	70	8
			Mexican	52	6
			Asian	7	1
			Puerto Rican	5	1
TOTAL	840	100	TOTAL	840	100

The 840 migrant students enrolled in Maryland's special migrant education programs in summer 1982 represented approximately 80-85 percent of the total number of children who are eligible for these programs.

With respect to funding, it should be noted that although the State may serve students between the ages of 0-21, the Federal allocation to the State is based on the full time equivalency (FTE) count for children between the ages of 5-17.[227] Current regulations permit a State to "support a project that provides instructional or supporting services to preschool migratory children if the participation of these children does not (i) prevent the participation of school-aged migratory children; or (ii) dilute the effectiveness of the State migrant education program for these school-aged children."[228]

Historically, Maryland has used part of the total allocation to fund programs for children aged 4 and under.[229] The East Coast Migrant Head Start Project provides partial funding for pre-school programs in Caroline and Somerset counties.[230] Twenty-nine (29) percent of the migrant children served in the 1982 summer programs were aged 4 and under and did not generate funds under the Chapter I Migrant Education Program.[231]

Anselme Remy, of the Haitian American Training Institute (H.A.T.I.), also described educational programs available for migrant students, particularly those aimed at Haitians.[232] H.A.T.I. funded by the U.S. Department of Education and the Maryland Department of Human Resources, has provided English language programs for non-English-speaking Haitians and Hispanic migrants, who numbered over 350 in 1981 and almost 400 in 1982.[233] He urged members of the Advisory Committee to consider how important educational programs are to the

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[227]Velma R. Speight, Assistant State Superintendent, Division of Compensatory, Urban, and Supplementary Programs, Maryland State Department of Education, letter to Edward Rutledge, Regional Director, U.S. Commission on Civil Rights, dated April 26, 1983 (hereinafter cited as Speight Letter).

[228]Ibid.

[229]Ibid.

[230]Ibid.

[231]Ibid.

[232]Transcript, Vol. II, p. 134.

[233]Transcript, Vol. II, p. 135.

Haitians in particular. In his view, the solution to the problem of continued oppression and deprivation of migrant workers lies in their education.[234] Through education, these workers will gain ability to communicate with others in English, to know their rights under United States laws, and to defend themselves against the abuses they experience as migrants in the agricultural workplace. Yet the prognosis for these workers, contended Remy, is not promising.

Friend also spoke pessimistically. He pointed out that local resistance to aiding migrants has been significant. He said:

> In recent years, the summer school programs have come under scrutiny and attack by local residents who argue that their tax dollars are being spent to educate "those migrant children" while resident children are not provided the same summer school privileges. We see problems in local attitudes because there is money earmarked to serve the migrant---money some citizens would prefer to use to address the resident population.[235]

He also explained the foreseeable negative impact of current Federal budget cuts and the diminished role of Federal educational authority in favor of State and local control over educational decisionmaking. In addition, he predicted that the reduced funding will result in curtailing daycare and preschool educational programs, secondary school services, and programs teaching English as a second language.[236] He added:

> The budget cuts reach beyond education, hitting hardest at such vital services as health, food stamps, and school lunch. . . . The cumulative impact of these cuts will strike hardest at those least able to resist, young children from disadvantaged families.[237]

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[234]Transcript, Vol. II, p. 141.

[235]Friend Statement, p. 6.

[236]Friend Statement, pp. 7-8.

[237]Friend Statement, p. 7.

Federal, State, and Local Authorities

Title I of the Federal Elementary and Secondary Education Act[238] authorizes the Migrant Education Program for the purpose of:

> . . . making Federal funds available to State educational agencies to establish or improve State migrant education programs designed to meet the special educational needs of migratory children of migratory agricultural workers . . . .[239]

In order to receive these funds, State educational agencies submit to the U.S. Department of Education a request for funds that includes: (1) a description of how the funds will be spent during the current fiscal year; (2) a strategy for identifying and recruiting all eligible migratory children in the State; (3) a plan for ensuring continuity in the education of these children by working cooperatively with other States and by using the migrant student record transfer system (MSRTS); and (4) a monitoring and enforcement plan.[240]

Friend told the Advisory Committee that the MSRTS has been combined with educational recruitment services aimed at migrants and has been in operation as the Maryland Migrant Education Service Center (MESC) in a Salisbury school since 1977.[241] The State's FY '83 Maryland Migrant Education State Plan, submitted to the U.S. Department of Education in May 1982 for Federal funding for FY '83 State and local migrant education programs, describes the operation of the MESC along with a detailed description of current and planned education programs for migrants. From the MESC, with its staff of six, the State of Maryland operates the MSRTS, a migrant education identification and recruitment program, advocacy services, a media resource center, parent involvement and awareness programs, and several other functions.[242]

As in 1982, seven county school systems were projected in the FY '83 plan to offer migrant programs again in the coming program year, although with increased numbers of

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[238] 20 U.S.C.A. section 2761 (1978).

[239] 34 C.F.R. section 204.1(a)(1) (1982).

[240] Id. at section 204.12.

[241] Friend Statement, p. 3.

[242] FY '83 Plan, p. 7.

participants projected. These county systems are "subgrant" recipients of Federal funds through the State Department of Education. The FY '83 plan recognizes that:

> . . . the local education agencies have a wealth of previous experience and expertise in providing good educational programs. However, not all local education agencies have the available resources necessary to provide services to infants and toddlers, preschool-aged children, or to post-secondary-aged youth.[243]

As a consequence, the plan acknowledges a need for local agency programming for special non-school-aged children.

The FY '83 plan details an elaborate, 30-page evaluation plan with eleven major performance objectives and means of measuring the accomplishment of those objectives. Each of the eleven objectives is further subdivided into very specific statements of goals that span a comprehensive range of areas in which the State aims to serve its migrant student population. The eleven major objectives cover the following topics: basic skills development education; occupational skills training; early childhood education; handicapped migratory children; secondary credit exchange program; identification, certification, and recruitment; migrant student record transfer system; skills information system; advocacy services; community-school resources; and parent consultation and involvement.[244] The plan also recognizes the need for special language instruction, as well, in order "to assist" migrants "in acquiring English proficiency."[245] Of the dozens of stated goals, the plan identifies three specific objectives as the most important for gauging the program's success in FY '83:

1) the funding of seven local school systems to provide supplementary programs in reading, language development, and mathematics---in order to provide basic skills development;

2) the establishment of a secondary credit exchange program that will enable migrant students to transfer credits earned in Maryland to "home base" schools in other States---particularly Texas and Florida---in order to meet the graduation requirements of those States; and

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[243]Ibid.

[244]FY '83 Plan, p. 12.

[245]Ibid.

3) the expansion of the State's migrant educational programs into two additional local school systems---Allegheny and Prince Georges Counties ---in order to reach a higher proportion of the total number of eligible migrant children in the State.[246]

The FY '83 plan for Maryland summarizes the following Migrant Education Program accomplishments as "the most significant" to date:

1) the teaching of 2,730 children in reading, mathematics, oral language, and early childhood skills, since June 1979;

2) the development of a State education plan based on the needs of the migrants in Maryland;

3) the establishment of a training model for migrant parents and teachers of migrant students, in cooperation with the Delaware Migrant Education Program;

4) the heightened involvement of migrant parents in State and local education programs; and

5) the expansion of interstate cooperative activities for the education of migrant students.

Summary and Conclusions

A comprehensive and ambitious educational program has been established for the children of the migrants in Maryland. Yet these children continue to experience poor educational achievement. Educators foresee future cutbacks in available programs despite a growing need for such programs as English-for-speakers-of-other-languages, preschool care and education, and occupational skills training. Despite the accomplishments and plans of educators in Maryland, migrants

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[246]FY '83 Plan, p. 10.

are typically ostracized by local residents, and a significant proportion of children who are eligible to participate in educational programs do not enroll.[247]

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[247]Speight Letter. Ms. Speight indicated that during the summer it is true that a portion of children between the ages of 0-21 who are identified as eligible to participate in educational programs do not do so. However, she maintains that this number is not significant when the age groups are defined. She stated that at the preschool and elementary levels, fewer than 5 percent of the children identified do not participate due to parental decision. Ms. Speight further stated that during the summer program it is the higher grade levels that have fewer participants. This was true because (1) students in the higher grade levels are expected to work to help sustain the family; and (2) budget restrictions allowed only two school systems to provide evening programs during the summer of 1982 that focused on vocational and basic skill development for secondary students. Moreover, many of the eligible Haitian students (ages 16-21) in the Chapter I Migrant Education Program were served in classes sponsored by the Maryland Department of Human Resources, funded by the U.S. Department of Education.

FINDINGS AND RECOMMENDATIONS

The following findings and recommendations are submitted under the provisions of Section 703.2(e) of the U.S. Commission on Civil Rights' regulations calling upon the Advisory Committee to initiate and forward advice and recommendations to the Commission upon matters which the State Committee have studied. Incidental to advising the Commission of these matters, the Advisory Committee plans to share its findings and recommendations with pertinent State and local officials, and the interested public.

CHAPTER 2

Finding 2:1 There is no accurate count of either the number of migrants in the State of Maryland or of the number of migrants in need of housing within the State on a seasonal basis.

Recommendation 2:1 The Maryland Department of Health and Mental Hygiene should require growers and/or crewleaders to provide the Department with the number of migrant workers actually employed during the calendar year.

Finding 2:2 The quality of migrant dwellings in the State of Maryland is extremely poor. More than one-third of the 57 licensed migratory labor camps in 1982 operated with major health and safety deficiencies.

Recommendation 2:2 The Maryland Department of Health and Mental Hygiene should be given adequate staff with which to effectively monitor compliance with State and local health regulations and should refrain from licensing migratory labor camps that have a demonstrated history of noncompliance.

Finding 2:3 Only one camp in the entire State was refused a permit to operate. Yet, this camp operated even without the required permit.

Recommendation 2:3 The Maryland Department of Health and Mental Hygiene, through the Attorney General's office, should immediately seek enforcement of all outstanding major housing deficiencies found in migratory labor camps.

CHAPTER 3

Finding 3:1 The health of migrant workers in the State of Maryland is generally poor and is adversely affected by poor nutrition in particular.

Recommendation 3:1 The Maryland Department of Human Resources and the Maryland Department of Health and Mental Hygiene, in conjunction with their county representatives, should improve communications between themselves and migrant workers in order to more effectively address the health and nutrition needs of this group.

Finding 3:2 A number of migrant workers suffer ill health as the result of physical abuse by some crewleaders and crewleader employees.

Recommendation 3:2 All reported cases of assault on migrants by crewleaders or their employees should be expeditiously investigated and, where appropriate, prosecuted.

CHAPTER 4

Finding 4:1 Federal, State, and local agencies charged with responsibility for enforcing protective statutes (FLCRA, OSHA, and FLSA) do an inadequate job.

Recommendation 4:1 Federal, State, and local agencies responsible for enforcing protective statutes and regulations should use all available legal means to do so.

Finding 4:2 Illiteracy among Haitian and Hispanic workers and their inability to speak English prevents them from knowing their basic rights as workers and precludes most government agencies from effectively discharging their duties of monitoring and enforcement.

Recommendation 4:2 All Federal and State agencies charged with responsibility for monitoring and/or enforcing the protective statutes (FLCRA, OSHA, and FLSA) should employ bilingual personnel or utilize the services of interpreters who are sensitive to the cultural patterns represented in the migrant population in order to ensure accuracy and ease of communication with migrant laborers.

CHAPTER 5

Finding 5:1 Migrant workers are usually paid less for their services than is required by the minimum wage law.

Recommendation 5:1 Minimum wage rates provided by the Fair Labor Standards Act should be more closely monitored and enforced by the Wage and Hour Division of the Department of Labor.

Finding 5:2 Crewleaders generally do a poor job of recordkeeping, often failing to keep reliable records of wage payments and deductions.

Recommendation 5:2 The Secretary of Labor should revoke or suspend the registration certificate of crewleaders who consistently violate the provisions of the Farm Labor Contractor Registration Act.

CHAPTER 6

Finding 6:1 Educational programs such as those offered by the Maryland State Department of Education and the Haitian Training Institute are a positive step in solving the myriad problems of migrant workers and should be continued.

Recommendation 6:1 Additional State funding for migrant educational preschool programs must be obtained in sufficient amounts to offset any Federal budget cuts and current Federal funding under Chapter 1. Migrant Education Programs should be maintained.

APPENDIX A

ADVOCACY ORGANIZATIONS

In the course of its 1982 and 1983 work on the project, the Maryland Advisory Committee to the U.S. Commission on Civil Rights identified the following organizations that have current efforts aimed at improving the lives of migrant workers in Maryland:

Catholic Rural Ministries
Children's Oral Health Program
Del-Mar Health Project
Delmarva Rural Ministries
East Coast Migrant Headstart Program
East Coast Migrant Project (ECMP)
Governor's Commission on Hispanic Affairs
Inner County Health, Ind.
Maryland Farm Bureau
Maryland Migrant Education Advisory Council
Maryland & Washington, D.C., Chapters of the AFL-CIO
Migrant and Seasonal Farmworkers Association
Migrant Legal Action
National Criminal Defense Association
Northwest Field Service Committee of the National Council of Churches
Salisbury State College
Secretariat for the Spanish Speaking of the National Council of Catholic Bishops
Somerset County Organization for Progressive Enterprise, Inc., (SCOPE)

plus many local church groups and service organizations such as Lions Club, Salvation Army groups, Red Cross affiliates, Women's Clubs, and 4-H Groups.

Among the government agencies that have a direct responsibility concerning migrant workers are:

Federal

Department of Agriculture
Department of Education
Department of Health and Human Services
Department of Labor
Environmental Protection Agency
VISTA

State

Cooperative Extension Service
Department of Agriculture
Department of Education

Department of Health and Mental Hygiene
Department of Human Resources
Governor's Commission on Migratory and Seasonal Farm Labor
MOSHA

Local

Department of Health
School System

APPENDIX B

AGENCY REVIEW REPLIES

U.S. Department of Labor

Employment and Training Administration
P.O. Box 8796
Philadelphia, Pennsylvania 19101

Reply to the Attention of: III-TGR/MA

MAY 10 1983

U.S. Commission on Civil Rights
RECEIVED
MAY 13 1983
Mid-Atlantic Regional Office

Mr. Edward Rutledge
Regional Director
U.S. Commission on Civil Rights
Mid-Atlantic Regional Office
2120 L Street N.W. - Room 510
Washington, D. C. 20037

Dear Mr. Rutledge:

In response to your letter of April 18, 1983, we have reviewed the report of your Maryland Advisory Committee regarding migrant and seasonal farmworkers (MSFWs) on the Eastern Shore of Maryland. The Employment and Training Administration has various responsibilities for oversight of the conditions of MSFWs through the State Employment Security Agencies and also through the Regional Farm Labor Coordinated Enforcement Committee. These responsibilities include joint efforts with other Federal, State, and local governmental and nongovermental agencies which also have mandates which impact on MSFWs. In this context, our response is offered on that portion of the study which you submitted to us - pages 8 through 38, and pages 56 through 66.

1. It would be helpful to have benefit of the entire report in our review, recognizing that there are restrictions inherent in your attempt to involve a myriad of agencies.

2. Page 14 - concerning the formation of the Governor's Commission on Migratory and Seasonal Farm Labor. This commission was created by Executive Order of the Governor of Maryland in order to advise the Governor on various aspects of migrant and seasonal farm labor. We are enclosing a copy of the latest Executive Order. It does not appear that the Commission was formed solely to determine the fitness of Westover Camp.

3. Page 14 - concerning the recommendations of the Committee to the Governor. It is our understanding that the State maintains an oversight function of the duties performed by the county health departments. The State retains the ability to

intervene so there is no need to revoke local authority, but perhaps a need for more extensive involvement of the State agency. This item is clarified somewhat at the top of page 37. An understanding of the State/county relationship would be helpful early in the report.

4. Page 21 - concerning the detailed narrative report summarized on pages 8-11. It would be more informative if the summary on pages 8-11 included a chart of the specific deficiencies which were apparently revealed in the report submitted by the Department of Health and Mental Hygiene. The only camp mentioned by name is Westover which accounts for about one-third of the total capacity (665 of 1,836) of camps licensed in 1982 on the Eastern Shore.

   What about the other 32 camps which house the other two-thirds of the workers?

   The summary on page 11 also mentions that more than a third of the 57 permitted camps Statewide experienced major deficiencies in meeting health and safety standards. The report should distinguish those statistics which apply to the Eastern Shore versus those which apply Statewide. Since the study concerns the conditions on the Eastern Shore, it is confusing to inject Statewide information and the consistency of the report is lost.

   For example, is the percentage of camps which experience major deficiencies the same for camps on the Eastern Shore as for the total camps in the State?

5. Page 21 - concerning the licensed capacity of migrant camps. It appears that the capacity for 1982 was omitted. Also, it seems that these again are Statewide figures, since the capacity of camps on the Eastern Shore for 1981 is estimated at 1,609 on page 9. On page 21, the licensed capacity for 1981 is stated as 2,344.

6. Page 21, 22 - concerning the difference between the capacity of camps and the number of migrants in the State. There is another possibility which could account for this difference or some portion of it. What is the rate of turnover of workers in the camps? How many people occupy the same bed during a given year? It would be beneficial to know how many citations are issued for exceeding the capacities of the permits and what the excesses actually are.

7. Page 38 - Summary and Conclusions. Again, the statement seems to apply to the entire State. Some specificity would be useful, perhaps in a chart or graphic display, to depict the kinds and numbers of deficiencies, inspections, etc.

8. Page 58 - concerning Attorney Sandler's statement. Were these hundreds of instances of improper wage payments reported to the appropriate State or Federal agencies? This is important in relation to the summary statement that many of the State and Federal laws are not enforced.

9. Page 66 - Summary and conclusions. Again, some specificity about the kinds of violations found and substantiated would be helpful. A comparison of dollar amounts of violations with dollar amounts of earnings could be a starting point. Statistics compiled by appropriate State and Federal agencies which exemplify the problems should prove useful.

The study is informative and highlights the problems encountered by MSFWs. I hope these comments are useful in the development of your final report. If you have any questions, please contact me or Regional Monitor Advocate Charles H. Trail at 215-596-6393. I appreciate your keeping us informed about your study.

Sincerely,

for James Whitcett

WILLIAM J. HALTIGAN
Regional Administrator

Enclosure

EXECUTIVE ORDER
01.01.1981.01

GOVERNOR'S COMMISSION ON MIGRATORY AND SEASONAL FARM LABOR

WHEREAS, The Commission on Migratory Labor was established in March 1959 by House Joint Resolution No. 5 in recognition of the unmet needs of migratory agricultural laborers, particularly in the areas of employment, education and training, housing, sanitation, health, transportation, fair treatment by labor contractors, and community acceptance; and

WHEREAS, The General Assembly of Maryland in so resolving affirmed that despite increased governmental responsibility to enhance employment opportunities and improve the life-style of migratory and seasonal farm workers, the Commission was needed to study and regulate migratory labor in Maryland in order to muster all available governmental, private and legal resources to alleviate the problems and vital concerns that arise in connection with the use of migratory workers; and

WHEREAS, By Executive Order 01.01.1971.02, dated January 19, 1971, the Commission was assigned to the Department of Social Services and then by Executive Order 01.01.1976.06, dated August 4, 1976, was assigned to the Department of Human Resources; and

WHEREAS, There is now a need for a reconstituted and revitalized Commission to further carry out these purposes for the migrant farmworkers in this State and to expand the mandate of the Commission to carry out the same purposes for the seasonal farmworkers of this State;

NOW, THEREFORE, I, HARRY HUGHES, GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, HEREBY ORDER AND DIRECT THAT:

1. (a) There is a Governor's Commission on Migratory and Seasonal Farm Labor in the Department of Human Resources.

(b) (1) The Commission consists of the following members or their designees:

(i) The Secretary of Agriculture;
(ii) The Secretary of Health and Mental Hygiene;
(iii) The Secretary of Human Resources;

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(iv) The Secretary of Licensing and Regulation;

(v) The State Superintendent of Education;

(vi) The Director of the University of Maryland Cooperative Extension Service;

(vii) The Secretary-Treasurer of the Maryland-District of Columbia AFL-CIO;

(viii) The Executive Director of the Maryland Food Committee;

(ix) The Executive Vice-President-Secretary of the Mid-Atlantic Food Processors;

(x) The President of the Maryland Farm Bureau;

(xi) The President of the Maryland Vegetable Growers Association;

(xii) The President of the Maryland Horticulture Society; and

(xiii) The President of the Resource Association for Migrant Programs.

(2) The membership of the Commission also includes:

(i) A representative of the Governor's Office;

(ii) Two Representatives of the farmworkers community;

(iii) A representative of the Maryland Catholic Rural and Migrant Life Ministries; and

(iv) A representative of the Delmarva Rural Ministries.

(c) The Chairperson of the Commission shall be appointed by the Governor with the advice ofthe Secretary of Human Resources.

(d) The Commission shall meet at least four times a year, at the times and places determined by the chairperson.

(e) A member of the Commission may not receive compensation, but is entitled to reimbursement for expenses under the standard State travel regulations, as provided in the State Budget.

(f) The Department of Human Resources shall provide staff assistance to the Commission as provided for in the State Budget.

2. (a) The Commission shall:

(1) Serve as the advisory body to the Governor, the General Assembly, and agencies within the Executive Department on matters relating to the migratory and seasonal farm labor population of Maryland.

(2) Serve as a forum for farm laborers,

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growers, service agencies and State agencies to share information and concerns, and to cooperate in developing recommendations concerning matters that affect the migratory and seasonal farm population of Maryland.

(3) Work with growers, communities in which the workers live, crewleaders, private groups, churches, and agencies of State and of local government for the purpose of advancing the welfare of migratory and seasonal farm laborers and to gain their acceptance by the community.

(4) Promote the coordination of and, to the degree feasible, participate in the evaluation of farm labor programs and services to this population that are provided by the State and Federal government and private agencies.

(5) Make on-site inspections, conduct surveys, and interview employers, workers, governmental experts, and members of the community whenever, in its judgment, these activities are necessary to assess conditions affecting migratory and seasonal farm laborers; and

(6) Review and make recommendations on existing and proposed Federal, State, and local legislation, rules and regulations, policies, and programs that affect or would affect the migratory and seasonal farm labor population in Maryland.

(b) The Commission shall prepare and submit to the Governor and the Secretary of Human Resources an annual report concerning the migratory and seasonal farm labor population of Maryland.

(c) In carrying out its general mandate under this order in behalf of the migratory and seasonal farm labor force, and, in particular, in making its recommendations as required by Section 2.(a)(6) of this Order and in preparing its report as required by Section 2.(b) of this Order, the Commission shall give fair consideration to the problems and concerns of the growers by whom the migratory and seasonal farm labor population is employed.

(d) The Commission may adopt bylaws to govern the procedures for carrying out the provisions of this Order.

3. The Commission is entitled to the full cooperation of all State departments and agencies. In this regard, State departments and agencies shall furnish information and any other assistance as may be necessary and available to further the purposes of this Order.

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4. The Commission established under this Order supersedes the Commission that was established under House Joint Resolution No. 5 of 1959 and Executive Orders 01.01. 1971.02 and 01.01.1976.06, which reassigned that Commission, are repealed.

GIVEN Under My Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 22nd day of April, 1981.

Harry Hughes
Governor

ATTEST:

Fred L. Wineland
Secretary of State

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GOVERNOR'S COMMISSION ON MIGRATORY AND SEASONAL FARM LABOR
1123 NORTH EUTAW STREET
SUITE 310
BALTIMORE, MARYLAND 21201
(301) 383-2248

COMMISSIONERS

Leon Johnson, Chairman
Cooperative Extension Service

Jean Adams	Governor's Office
Kenneth Bennett	Maryland Vegetable Growers Association
Nancy Burkheimer	Department of Licensing & Regulation
Thomas Butler	Department of Agriculture
*Ronald E. Friend	Department of Education
*Father Arthur P. Gildea	Maryland Catholic Ministries
Lewis W. Jones	Resource Association for Migrant Workers
**Father John Kelly	Maryland Catholic Ministries
Marlene Kiingati	Maryland Food Committee
Judith A. Lewis	Department of Health & Mental Hygiene
John C. Miller	Maryland Farm Bureau
Linda K. Miller	Delmarva Rural Ministries
Edward Mohler	Maryland State AFL-CIO
**Charles F. Morgan	Department of Licensing & Regulation
John Rinehart	Maryland Horticulture Society
Franklin Schales	Mid-Atlantic Food Processors Association
Pablo Schedaegger	Farmworker Representative
**Guffrie M. Smith, Jr.	Department of Education
Charles G. Tildon, Jr.	Department of Human Resources
Maurice M. Turner	Farmworker Representative

STAFF

Patricia Fields, Executive Director Myrna L. Wallace, Secretary

*Recent Appointee
**Resigned during 1981

STATE OF MARYLAND

HARRY HUGHES
GOVERNOR

COMMISSIONER

DEPARTMENT OF LICENSING AND REGULATION
DIVISION OF LABOR AND INDUSTRY
501 ST. PAUL PLACE . BALTIMORE, MARYLAND 21202
301/659-4181

JOHN J. CORBLEY
SECRETARY

NANCY B. BURKHEIMER
DEPUTY COMMISSIONER

May 2, 1983

Edward Rutledge, Regional Director
U.S. Commission on Civil Rights
Mid-Atlantic Regional Office
2120 L Street, N.W. - Room 510
Washington, D.C. 20037

RE: Migrant and Seasonal Farm Workers

Dear Mr. Rutledge:

Thank you for the draft copy of portions of the U.S. Commission on Civil Rights' report on the living and working conditions of migrant and seasonal farm workers on Maryland's eastern shore.

I look forward to receiving the final draft of "Migrant Workers on Maryland's Eastern Shore", and to working with you in the future on this important issue. In this regard, I enclose for your information a copy of the new Maryland Farm Labor Contractor Registration Act which became effective on January 1, 1983.

Sincerely,

Nancy B. Burkheimer

Nancy B. Burkheimer
Deputy Commissioner of
Labor and Industry

NBB:pr

Enclosure

BALTIMORE METRO AREA 659-4181
OUTSIDE BALTIMORE METRO AREA

TTY FOR DEAF
BALTO. AREA 383-7555
D.C. METRO 565-0451

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DAVID W. HORNBECK
STATE SUPERINTENDENT

SPECIAL EDUCATION TTY 659-2666*
VOC-REHABILITATION TTY 659-2252*
FOR DEAF ONLY

MARYLAND STATE DEPARTMENT OF EDUCATION
200 WEST BALTIMORE STREET
BALTIMORE, MARYLAND 21201
(301) 659- 2400

April 26, 1983

U.S. Commission on Civil Rights
RECEIVED
APR 28 1983
Mid-Atlantic Regional Office

Mr. Edward Rutledge
Regional Director
United States Commission on Civil Rights
Mid-Atlantic Regional Office
2120 L Street, N. W. - Room 510
Washington, D. C. 20037

Dear Mr. Rutledge:

We have reviewed the portion relevant to this agency of the report "Migrant Workers on Maryland's Eastern Shore." The report accurately reflects the Department's migrant education program as presented by Ronn E. Friend to the Maryland Advisory Committee to the U. S. Commission on Civil Rights at its forum in Salisbury, Maryland on August 4, 1982.

We do, however, want to clarify the manner in which the program is funded at the federal level since this was not clear in the report. Although the state may serve students between the ages of 0-21, the federal allocation to the state is based on the FTE count for children between the ages of 5-17. Current regulations permit a state to "support a project that provides instructional or supporting services to preschool migratory children if the participation of these children does not (i) prevent the participants of school-aged migratory children; or (ii) dilute the effectiveness of the state migrant education program for these school-aged children (45CFR Part 116d.58)."

Historically, Maryland has used part of the total allocation to fund programs for children aged 4 and under. The East Coast Migrant Head Start Project provides partial funding for pre-school programs in Caroline and Somerset Counties. It is important to point out that 29 percent of the migrant children served in the 1982 summer programs were aged 4 and under and did not generate funds under the Chapter I Migrant Education Program.

Additionally, we want to add clarity to the last sentence of the Summary and Conclusions on page 70. During the summer it is true that a portion of children between the ages 0-21 who are identified as eligible to participate in educational programs do not do so; this number is not significant when the age groups are defined. At the preschool and elementary levels fewer than 5 percent of the children identified do not participate due to parental decision.

As would be expected, during the summer program the higher grade levels have fewer participants. These students, generally, are expected to work to help sustain the family. Because of budget restrictions, only two school systems provided evening programs during the summer of 1982 that focused on vocational and basic-skill development for secondary students. Furthermore, many of the Haitian students identified as eligible to participate (ages 16-21) in the Chapter I Migrant Education Program were served in classes sponsored by the Maryland Department of Human Resources, funded by the U. S. Department of Education.

We look forward to the release of the report and hope it serves as a conduit of information which will improve the life of migrants during their stay in Maryland. If you have additional questions or need further information, do not hesitate to contact us at your convenience.

You can depend on our continued support and cooperation.

Sincerely,

Velma R. Speight

Velma R. Speight
Assistant State Superintendent
Division of Compensatory, Urban,
and Supplementary Programs

VRS:ccw
cc: Mr. Ronn E. Friend

State of Maryland

OFFICE OF THE SECRETARY
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
201 WEST PRESTON STREET • BALTIMORE, MARYLAND 21201 • Area Code 301 • 383-2600

Harry Hughes, Governor

Charles R. Buck, Jr., Sc.D. Secretary

May 16, 1983

Mr. Edward Rutledge
Regional Director
U. S. Commission on Civil Rights
Mid-Atlantic Regional Office
2120 "L" Street, N. W.
Washington, D. C. 20037

Dear Mr. Rutledge:

Thank you for providing me with a copy of the report concerning the living and working conditions for migrant and seasonal farm workers on Maryland's Eastern Shore. While comprehensive, the report focuses on camp conditions prior to 1982. It fails to recognize the level of effort being put forth by various State agencies, including the Department of Health and Mental Hygiene in correcting deficiencies which have been observed in the past.

With the restructuring of the Department's Environmental Programs under an Assistant Secretariat in 1981, our efforts in the area of migrant and seasonal farm workers have been greatly enhanced. Under the direction of Mr. William M. Eichbaum, Assistant Secretary for Environmental Programs, significant improvements have been made and continue to be made in migratory labor camps in the State. Considering these improvements and the Department's effort in providing health care services, I find it difficult to accept the report's conclusions.

I appreciate the opportunity to comment and I trust that my remarks will be given consideration in the preparation of the final draft.

Sincerely yours,

Charles R. Buck, Jr., Sc.D.
Secretary of Health and Mental Hygiene

CRB:js

cc: Mr. William M. Eichbaum
Mr. David L. Resh, Jr.
Mr. Irvin L. Myers

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U.S. Department of Labor

Employment Standards Administration
3535 Market Street
Philadelphia, Pennsylvania 19104

Reply to the Attention of:

April 25, 1983

Edward Rutledge
Regional Director
U. S. Commission on
Civil Rights
2120 L Street, NW - Room 510
Washington, DC 20037

Dear Mr. Rutledge:

This is in response to your letter dated April 18, 1983, enclosing an advance copy of the Maryland Advisory Committee to the U. S. Commission on Civil Rights Report on the migrant and seasonal farm workers on Maryland's Eastern Shore.

In Fiscal Year 1982, the Employment Standards Administration's Wage-Hour Division conducted seventy-seven (77) compliance actions under the Farm Labor Contractor Registration Act on Maryland's Easter Shore. These investigations required the expenditure of 989 hours. Twenty-four (24) housing inspections were conducted, fifteen (15) of which disclosed violations of the safety and health provisions. As your report indicates, the Wage-Hour Division can only conduct a housing inspection where the Farm Labor Contractor owns or controls the farm worker housing.

In twenty-eight (28) of the investigations, concurrent investigations were conducted under the Fair Labor Standards Act (FLSA). $22,078 was found due under Section 6 of the FLSA to 141 employees.

Your invitation to comment in advance of publication of the report is appreciated.

Sincerely,

Charles M. Angell
Regional Administrator
for Employment Standards

U.S. Commission on Civil Rights
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MAY
Region

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U.S. Department of Labor

Occupational Safety and Health Administration
1110 Federal Building
31 Hopkins Plaza
Baltimore, Maryland 21201
Reply to the Attention of:

April 27, 1983

Mr. Edward Rutledge
Regional Director
United States Commission on
Civil Rights
2120 L Street, N.W. - Room 510
Washington, D.C. 20037

Dear Mr. Rutledge:

This is in response to your letter of April 18, 1983 requesting comments on the referenced Commission report, "Migrant Workers on Maryland's Eastern Shore."

I have reviewed the Commission's report and found those sections addressing OSHA migrant worker responsibilities to be factual and accurately reflect the sworn testimony of Mr. Lawrence Liberatore, a supervisory member of my staff.

Sincerely,

Gilbert L. Esparza
Acting Area Director

cc: William W. White

U.S. Department of Labor

Occupational Safety and Health Administration
3535 Market Street
Philadelphia, Pennsylvania 19104

Reply to the Attention of: FSO

May 9, 1983

Mr. Edward Rutledge
Regional Director
United States Commission
on Civil Rights
2120 L Street, N.W.
Room 510
Washington, D.C. 20037

Dear Mr. Rutledge:

Please consider this letter as a supplemental response to Area Director Esparza's correspondence dated April 27, 1983.

While I concur with Mr. Esparza's assessment of the accuracy of those sections of the report dealing with the Occupational Safety and Health Administration's authority vis-a-vis migrant and seasonal farmworkers, I must point out a basic inaccuracy in the section entitled "Summary and Conclusions."

In that section, the Commission concludes that while many Agencies had authority to "enforce standards that could improve conditions in . . .migrant camps . . . many of these camps . . . were significantly deficient in meeting health and safety standards and yet were permitted to continue operations." (Emphasis added.) Neither OSHA nor the Maryland Occupational Safety and Health Administration have any power to order the closing of any camp for violations of applicable standards. Rather, we are empowered to issue citations if violations or hazards are found. Those citations establish abatement dates by which violative conditions must be corrected. If cited conditions are not corrected by the scheduled abatement date, penalties of up to one thousand dollars per day may be imposed in addition to the penalties that may be assessed initially. Though enforcement procedures utilized by other Department of Labor agencies differ from OSHA's, I know of no authority under any enforcement scheme which provides for closing a migrant camp.

In light of that background, the implication that this Agency has somehow failed in its mission is incorrect.

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I would be happy to discuss these issues with you further if additional clarification is needed.

Sincerely,

William W. White, Jr.

WILLIAM W. WHITE, JR.
Acting Regional Administrator

UNITED STATES DEPARTMENT OF AGRICULTURE
FARMERS HOME ADMINISTRATION

151 East Chestnut Hill Road, Suite 2
Newark, Delaware 19713

May 2, 1983

Ms. Suzanne Cole
Mid-Atlantic Regional Office
2120L Street, N.W. Room 510
Washington, D.C. 20037

Dear Ms. Cole:

The report previously submitted; entitled "Migrant Housing", was very interesting and informative.

Our new instructions, as indicated in your report, do give us new latitude to make loans for year round and seasonal migratory housing use. We are receptive to financially assist applicants who do not have funds from their own resource or can not obtain competitive financing to meet their needs.

If we can be of further assistance to you, please feel free to conduct this office.

G. WALLACE CAULK
State Director

EJW/mm

U.S. GOVERNMENT PRINTING OFFICE : 1983 O - 408-721

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